

**Final Course**  
(Revised Scheme of Education and Training)  
**Study Material**

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**Elective Paper 6B**  
**Financial Services and**  
**Capital Markets**

**Part – B**

(Relevant for November, 2021 and  
May, 2022 Examinations)



**BOARD OF STUDIES**  
**THE INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA**

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# SYLLABUS

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## PAPER 6 B : FINANCIAL SERVICES AND CAPITAL MARKETS

*(One paper – Four hours – 100 marks)*

### Objective:

1. To gain knowledge of financial services rendered by intermediaries and banks and their role and activities in the financial market in general and capital markets in particular;
2. To acquire the ability to apply such knowledge to address issues in practical scenarios.

### Contents:

#### 1. Global Financial Markets

- Introduction to Global Financial Market
- Role of Financial Market in Economic Development of a country
- Stakeholders in Financial Market (Domestic and Global)
- Indian Financial Market scenario

#### 2. Impact of various Policies of Financial Markets

- Credit Policy of RBI
- Fed Policy
- Inflation Index, CPI, WPI, etc.

#### 3. Capital Market - Primary

- New Issue Market – Domestic and Global
- Private Placement, QIP, Disinvestment
- Right Issue

#### 4. Capital Market - Secondary

- Secondary Market
- Stock Market Operations
- Indian Debt Market

**5. Money Market**

- Basics of Money Market
- Money Market Participants
- Money Market Instruments
- Repo and Reverse Repo
- CRR, SLR
- MIBOR, LIBOR
- Government Securities Market

**6. Institutions and Intermediaries**

- Depository
- Stock and Commodity Exchanges – Indian and Global
- Intermediaries
- Institutional Investors
- FPIs
- Custodians
- Clearing Houses

**7. Commodity Market**

- What are Commodity Markets
- Role of Commodity Markets
- Commodity Market in India
- Application of Derivative in Commodities
- Global Commodities Exchanges

**8. Banking as source of Capital including NBFCs**

- Concept of Project Financing
- Working Capital Management
- Reverse Mortgage

**9. Mutual Funds**

- Meaning

- Evolution
- Types
- Performance Measures, NAV
- Mutual Fund Organisation
- Advantages and Disadvantages of Mutual Fund
- Exchange Traded Funds (ETFs)
- Real Estate Investment Trusts (REITs)
- Infrastructure Investment Trusts (Invits)

#### 10. Private Equity

- Meaning and Classification
  - ❖ Venture Capital
  - ❖ Buyouts
  - ❖ Special Cases
  - ❖ Hurdle rate
  - ❖ Paid in Capital
  - ❖ Term Sheet
- Cost of Investing in Private Equity
- Exit Routes
- Valuation of Private Equity Transactions
- Private Equity Funds (Distribution of returns in General Partner and Limited Partners)

#### 11. Investment Banking

- Concept
- Functions
- Challenges
- Developments in Investment Banking
- Merchant Banking and issue management

#### 12. Credit Rating

- Introduction

- Rating Services
  - Objectives and types
  - Uses
  - Credit Rating Process
  - Credit Rating Methodology
  - Rating Revisions
  - Credit Rating Agencies in India and abroad
  - Limitations with case studies
- 13. Treasury Operations**
- Raising and Deployment of Funds
  - Risk Management
- 14. Risk Management**
- Preventive Controls
  - Early Signals
  - Credit Risk
- 15. Credit Derivatives**
- Credit Default Swaps
  - Collateralized Debt Obligations (CDO)
  - Pricing of Credit Derivative Instruments
- 16. Leasing**
- Meaning, types, advantages and disadvantages of Leasing
  - Financial evaluation of lease proposal from perspective of Lessee and Lessor
  - Break Even Lease Rental (BELR) from Lessee's and Lessor's point of view
  - Cross Border Leasing
  - Regulatory Aspects of Leasing
- 17. Factoring**
- Concept, Definition and Mechanism of Factoring
  - Types/Forms of Factoring

- Functions of a Factor
- Benefits of Factoring
- Factors inhibiting the growth of Factoring in India
- Forfaiting
- Forfaiting vs Export Factoring
- Regulatory Aspects of Factoring

#### **18. SEBI Guidelines**

**Following topic are covered in the paper of Strategic Financial Management (Paper – 2) and Corporate and Economic Laws (Paper – 4) also forms the part of the syllabus**

- Securitization
- Fixed Income Securities (Valuation of Bonds/ Debentures)
- Derivatives
- Interest Rate Risk Management
- The Securities and Exchange Board of India Act, 1992
- Legislative framework on listing agreements
- The Securities Contract (Regulation) Act, 1956
- Chapter III-D of the RBI Act, 1934

## BEFORE WE BEGIN ...

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### **Revised Scheme of Education and Training: Bridging the competence gap**

The role of a chartered accountant is evolving continually to assume newer responsibilities in a dynamic environment. There has been a notable shift towards strategic decision making and entrepreneurial roles that add value beyond traditional accounting and auditing. The causative factors for the change include globalization leading to increase in cross border transactions and consequent business complexities, significant developments in information and technology and financial scams underlining the need for a stringent regulatory set up. These factors necessitate an increase in the competence level of chartered accountants to bridge the gap in competence acquired and competence expected from stakeholders. Towards this end, the scheme of education and training is being continuously reviewed so that it is in sync with the requisites of the dynamic global business environment; the competence requirements are being stepped up to enable aspiring chartered accountants to acquire the requisite professional competence to take on new roles.

### **Introducing “Electives”: Significant feature of the Revised Scheme of Education and Training**

In the Revised Scheme of Education and Training, the concept of electives is being introduced at the Final level in line with the school of thought that specialisation is the key to developing professionally competent chartered accountants. As per this school of thought, an emerging chartered accountant has to be geared up to assume new roles as consultants and advisors, necessitated on account of growing business complexity, dynamic changes in legislations and regulatory requirements and client expectations.

The seven core papers, namely, Financial Reporting, Strategic Financial Management, Advanced Auditing and Professional Ethics, Corporate and Economic Laws, Strategic Cost Management and Performance Evaluation, Direct Tax Laws and Indirect Tax Laws, represent the competence areas in respect of which an aspiring chartered accountant has to be technically well equipped, regardless of his intended future specialization or role. These subjects, in fact, provide the base to enable an aspiring chartered accountant to specialize in any professional accounting role. For instance, the core paper on direct tax laws and international taxation lays the foundation for further specialisation in the area of international taxation. Further, consequent to borderless economies, it has become imperative that subjects which transcend the borders be added in the curriculum, for instance, Global Financial Reporting Standards and International Taxation.

The six elective papers introduced in the Revised Scheme are Risk Management, Financial Services and Capital Markets, International Taxation, Economic Laws, Global Financial Reporting Standards and Multi-disciplinary case study. Students have to opt for one out of these six papers keeping in mind their desired area of specialization.

### Framework and brief introduction of Chapters

The Part B of the Elective Paper 6B – Financial Services and Capital Markets consists of SEBI Regulations (excluding Schedules) as mentioned in detailed contents of this part is applicable for November 2021 and May 2022 Examination.

The applicable five Regulations are enumerated as below:

- SEBI (Issue of Capital and Disclosure Requirements) Regulations, 2018
- SEBI (Listing obligations and Disclosure Requirements) Regulations, 2015
- SEBI (Prohibition of Insider Trading) Regulations, 2015
- SEBI (Buy Back of Securities) Regulations, 2018
- SEBI (Mutual Funds) Regulations, 1996

Further, though reference to Schedules has been given in the Regulations, the students are advised to go through it for understanding purpose only. However, schedules are specifically excluded while preparing the text of the Regulations as given in this part of the Study Material.

Since, regulations as given in Part B have been extracted from the regulations being hosted at SEBI website, inadvertent inclusion/ exclusion is possible. Therefore, in case of any doubt or difficulty, the students are advised to contact Board of Studies at the contact details given at the end.

### Strategy to approach this study material

It is desired from the students that they cover the entire syllabus and also required to visit ICAI Website for additional study material in the form of Supplementary material, etc. Students are also advised to update themselves with the latest changes in the financial sector. Students are, therefore, required to refer to academic updates in 'Students Journal' published by the Board of Studies, the monthly journal 'The Chartered Accountant', financial newspapers such as Economic Times, Mint, Business Line and Business Standard and SEBI Circulars relating to five Regulations as mentioned above.

**This Part of Study Material has to be referred in conjunction with Part A of the Study Material. Please note that while Part A may be revised, if required, Part B will be revised on yearly basis. Hence, it is essential that students should refer the applicable edition of Part B of Study Material as per the announcement being hosted at ICAI Website on time to time basis.**

Although, sincere efforts have been made to keep the study material error free yet, it may so happen that errors if any, may inadvertently crept in. In this respect, students are encouraged to highlight any mistake they may notice while going through the study material by sending an e-mail at [fscm-final@icai.in](mailto:fscm-final@icai.in) or write to the Director of Studies, The Institute of Chartered Accountants of India, A-29, Sector-62, Noida-201309.

**Happy Reading and Best Wishes!**

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# SEBI (ICDR) REGULATIONS, 2018



## CHAPTER I



### PRELIMINARY

#### Short title and commencement

1. (1) These regulations may be called the Securities and Exchange Board of India (Issue of Capital and Disclosure Requirements) Regulations, 2018.
- (2) They shall come into force on the sixtieth day from the date of its publication in the Official Gazette.

#### Definitions

2. (1) In these regulations, unless the context otherwise requires:
  - (a) “Act” means the Securities and Exchange Board of India Act, 1992 [15 of 1992];
  - (b) “advertisement” includes notices, brochures, pamphlets, show cards, catalogues, hoardings, placards, posters, insertions in newspaper, pictures and films in any print media or electronic media, radio, television programme
  - (c) “anchor investor” means a qualified institutional buyer who makes an application for a value of at least ten crore rupees in a public issue on the main board made through the book building process in accordance with these regulations or makes an application for a value of at least two crore rupees for an issue made in accordance with Chapter IX of these regulations;
  - (d) “application supported by blocked amount (ASBA)” means an application for subscribing to a public issue or rights issue, along with an authorisation to self-certified syndicate bank to block the application money in a bank account;

- (e) “associate” means a person which is an associate of the issuer and as defined under the Companies Act,2013;
- (f) “Board” means the Securities and Exchange Board of India established under the Act;
- (g) “book building” means a process undertaken to elicit demand and to assess the price for determination of the quantum or value or coupon of specified securities or Indian Depository Receipts, as the case may be, in accordance with these regulations;
- (h) “composite issue” means an issue of specified securities by a listed issuer on public-cum- rights basis, wherein the allotment in both public issue and rights issue is proposed to be made simultaneously;
- (i) “control” shall have the same meaning as assigned to it under the Securities and Exchange Board of India (Substantial Acquisitions of Shares and Takeovers) Regulations,2011;
- (j) “convertible debt instrument” means an instrument which creates or acknowledges indebtedness and is convertible into equity shares of the issuer at a later date at or without the option of the holder of the instrument, whether constituting a charge on the assets of the issuer or not;
- (k) “convertible security” means a security which is convertible into or exchangeable with equity shares of the issuer at a later date, with or without the option of the holder of such security and includes convertible debt instrument and convertible preference shares;
- (l) “designated stock exchange” means a recognised stock exchange having nationwide trading terminals chosen by the issuer on which securities of an issuer are listed or proposed to be listed for the purpose of a particular issue of specified securities under these regulations:  
**Provided that**, the issuer may choose a different recognised stock exchange as a designated stock exchange for any subsequent issue of specified securities;
- (m) “draft letter of offer” means the draft letter of offer filed with the Board in relation to a rights issue under these regulations;
- (n) “draft offer document” means the draft offer document filed with the Board in relation to a public issue under these regulations;
- (o) “employee” means a permanent employee, working in India or outside India, of the issuer or of the promoters or subsidiary company of the issuer, or a director of the issuer, whether whole-time or not and does not include (i) promoters, (ii)

a person belonging to the promoter group; or (iii) a director who either himself/herself or through their relatives or through anybody corporate, directly or indirectly, holds more than ten per cent. of the outstanding equity shares of the issuer;

**Provided that** for the purposes of stock option schemes, employee shall have the same meaning as assigned to under the Securities and Exchange Board of India (Share Based Employee Benefits) Regulations, 2014;

- (p) “fugitive economic offender” shall mean an individual who is declared a fugitive economic offender under section 12 of the Fugitive Economic Offenders Act, 2018 (17 of 2018);
- (q) “further public offer” means an offer of specified securities by a listed issuer to the public for subscription and includes an offer for sale of specified securities to the public by any existing holders of such specified securities in a listed issuer;
- (r) “general corporate purposes” include such identified purposes for which no specific amount is allocated or any amount so specified towards general corporate purpose or any such purpose by whatever name called, in the draft offer document, draft letter of offer, or the offer document:

**Provided that** any issue related expenses shall not be considered as a part of general corporate purpose merely because no specific amount has been allocated for such expenses in the draft offer document, draft letter of offer or the offer document;

- (s) “green shoe option” means an option of allotting equity shares in excess of the equity shares offered in the public issue as a post-listing price stabilizing mechanism;
- (t) “group companies”, shall include such companies (other than promoter(s) and subsidiary/subsidiaries) with which there were related party transactions, during the period for which financial information is disclosed, as covered under the applicable accounting standards, and also other companies as considered material by the board of the issuer;
- (u) “housing finance company” means a deposit taking housing finance company registered with the National Housing Bank for carrying on the business of housing finance;
- (v) “infrastructure sector” shall include the following facilities/services:
  - i) transportation (including inter modal transportation), including the following:
    - A) roads, national highways, state highways, major district roads,

- other district roads and village roads, including toll roads, bridges, highways, road transport providers and other road-related services;
- B) rail system, rail transport providers, metro rail roads and other railway related services;
- C) ports (including minor ports and harbors), inland waterways, coastal shipping including shipping lines and other port related services;
- D) aviation, including airports, heliports, airlines and other airport related services;
- E) logistics services;
- ii) agriculture, including the following:
  - A) infrastructure related to storage facilities;
  - B) construction relating to projects involving agro-processing and supply of inputs to agriculture;
  - C) construction for preservation and storage of processed agro-products, perishable goods such as fruits, vegetables and flowers including testing facilities for quality;
- iii) water management, including the following:
  - A) water supply or distribution;
  - B) irrigation;
  - C) water treatment etc.
- iv) telecommunication, including the following:
  - A) basic or cellular, including radiopaging;
  - B) domestic satellite service (i.e., satellite owned and operated by an Indian company for providing telecommunication service);
  - C) network of trucking, broadband network and internet services;
- v) industrial, commercial and social development and maintenance, including the following:
  - A) real estate development, including an industrial park or special economic zone;
  - B) tourism, including hotels, convention Centre sand entertainment entrées;

- C) public markets and buildings, trade fair, convention, exhibition, cultural centers, sports and recreation infrastructure, public gardens and parks;
  - D) construction of educational institutions and hospitals;
  - E) other urban development, including solid waste management systems, sanitation and sewerage systems, etc.;
- vi) power, including the following:
- A) generation of power through thermal, hydro, nuclear, fossil fuel, wind and other renewable sources;
  - B) transmission, distribution or trading of power by laying a network of new transmission or distribution lines;
- vii) petroleum and natural gas, including the following:
- A) exploration and production;
  - B) import terminals;
  - C) liquefaction and re-gasification;
  - D) storage terminals;
  - E) transmission networks and distribution networks including city gas infrastructure;
- viii) housing, including the following:
- A) urban and rural housing including public or mass housing, slum rehabilitation etc;
  - B) other allied activities such as drainage, lighting, laying of roads, sanitation
- ix) services provided by recognised stock exchanges and registered depositories, in relation to securities;
- x) other miscellaneous facilities or services, including the following:
- A) mining and related activities;
  - B) technology related infrastructure;
  - C) manufacturing of components and materials or any other utilities or facilities required by the infrastructure sector like energy saving devices and metering devices, etc.;
  - D) environment related infrastructure;

- E) disaster management services;
- F) preservation of monuments and icons;
- G) emergency services (including medical, police, fire, and rescue);
- xi) such other facility or service which, in the opinion of the board, constitutes infrastructure sector;
- (w) “initial public offer” means an offer of specified securities by an unlisted issuer to the public for subscription and includes an offer for sale of specified securities to the public by any existing holders of such specified securities in an unlisted issuer;
- (x) “innovators growth platform” means the trading platform for listing and trading of specified securities of issuers that comply with the eligibility criteria specified in regulation 283;
- (y) “institutional investor” means (i) qualified institutional buyer; or (ii) family trust or intermediaries registered with the Board, with net worth of more than five hundred crore rupees, as per the last audited financial statements, for the purposes of listing and/or trading on innovators growth platform] in terms of Chapter X;
- (z) “issue size” includes offer through offer document and promoters’ contribution brought in as part of the issue;
- (aa) “issuer” means a company or a body corporate authorized to issue specified securities under the relevant laws and whose specified securities are being issued and/or offered for sale in accordance with these regulations;
- (bb) “key managerial personnel” means the officers or personnel of the issuer who are members of its core management team (excluding board of directors) and includes members of the management one level below the executive directors of the issuer, functional heads and ‘key managerial personnel’ as defined under the Companies Act, 2013 or any other person whom the issuer may declare as a key managerial personnel;
- (cc) “lead manager” means a merchant banker registered with the Board and appointed by the issuer to manage the issue and in case of a book built issue, the lead manager(s) appointed by the issuer shall act as the book running lead manager(s) for the purposes of book building;
- (dd) “listed issuer” means an issuer whose equity shares are listed on a recognised stock exchange having nationwide trading terminals;
- (ee) “main board” means a recognised stock exchange having nationwide trading terminals, other than SME exchange;

- (ff) “net offer” means an offer of specified securities to the public but does not include reservations and promoters’ contribution brought in as part of the issue;
- (gg) “net tangible assets” mean the sum of all net assets of the issuer, excluding intangible assets as defined in Accounting Standard 26 (AS 26) or Indian Accounting Standard (Ind AS) 38, as applicable, issued by the Institute of Chartered Accountants of India;
- (hh) “net worth” means the aggregate value of the paid-up share capital and all reserves created out of the profits and securities premium account and debit or credit balance of profit and loss account, after deducting the aggregate value of the accumulated losses, deferred expenditure and miscellaneous expenditure not written off, as per the audited balance sheet, but does not include reserves created out of revaluation of assets, write-back of depreciation and amalgamation;
- (ii) “nominated investor” means a qualified institutional buyer or private equity fund, who enters into an agreement with the lead manager(s) to subscribe to an issue, made in accordance with Chapter IX, in case of under-subscription or to receive or deliver the specified securities in the market-making process in such an issue;  
**Explanation:** “private equity fund” means a fund registered with any regulatory authority or a fund established by any person registered with any regulatory authority;
- (jj) “non-institutional investor” means an investor other than a retail individual investor and qualified institutional buyer;
- (kk) “offer document” means a red herring prospectus, prospectus or shelf prospectus, as applicable, referred to under the Companies Act, 2013, in case of a public issue, and a letter of offer in case of a rights issue;
- (ll) “offer through offer document” means net offer and reservations;
- (mm) “persons acting in concert” shall have the same meaning as assigned to it under regulation 2(1)(q) of the Securities and Exchange Board of India (Substantial Acquisition of Shares and Takeovers) Regulations, 2011;
- (nn) “preferential issue” means an issue of specified securities by a listed issuer to any select person or group of persons on a private placement basis in accordance with Chapter V of these regulations and does not include an offer of specified securities made through employee stock option scheme, employee stock purchase scheme or an issue of sweat equity shares or depository receipts issued in a country outside India or foreign securities;

- (oo) “promoter” shall include a person:
- (i) who has been named as such in a draft offer document or offer document or is identified by the issuer in the annual return referred to in section 92 of the Companies Act, 2013; or
  - (ii) who has control over the affairs of the issuer, directly or indirectly whether as a shareholder, director or otherwise; or
  - (iii) in accordance with whose advice, directions or instructions the board of directors of the issuer is accustomed to act:

**Provided that** nothing in sub-clause (iii) shall apply to a person who is acting merely in a professional capacity;

**Provided further** that a financial institution, scheduled commercial bank, [foreign portfolio investor other than individuals, corporate bodies and family offices], mutual fund, venture capital fund, alternative investment fund, foreign venture capital investor, insurance company registered with the Insurance Regulatory and Development Authority of India or any other category as specified by the Board from time to time, shall not be deemed to be a promoter merely by virtue of the fact that twenty per cent. or more of the equity share capital of the issuer is held by such person unless such person satisfy other requirements prescribed under these regulations;

- (pp) “promoter group” includes:
- i) the promoter;
  - ii) an immediate relative of the promoter (i.e. any spouse of that person, or any parent, brother, sister or child of the person or of the spouse); and
  - iii) in case promoter is a body corporate:
    - A) a subsidiary or holding company of such body corporate;
    - B) anybody corporate in which the promoter holds twenty per cent. or more of the equity share capital; and/or anybody corporate which holds twenty per cent. or more of the equity share capital of the promoter;
    - C) anybody corporate in which a group of individuals or companies or combinations thereof acting in concert, which hold twenty per cent. or more of the equity share capital in that body corporate and such group of individuals or companies or combinations thereof also holds twenty per cent. or more of the equity share capital of the issuer and are also acting in concert; and

- iv) in case the promoter is an individual:
  - D) anybody corporate in which twenty per cent. or more of the equity share capital is held by the promoter or an immediate relative of the promoter or a firm or Hindu Undivided Family in which the promoter or any one or more of their relative is a member;
  - E) anybody corporate in which a body corporate as provided in (A) above holds twenty per cent. or more, of the equity share capital; and
  - F) any Hindu Undivided Family or firm in which the aggregate share of the promoter and their relatives is equal to or more than twenty per cent. of the total capital;
- v) all persons whose shareholding is aggregated under the heading "shareholding of the promoter group":

**Provided that** a financial institution, scheduled bank, [foreign portfolio investor other than individuals, corporate bodies and family offices], mutual fund, venture capital fund, alternative investment fund, foreign venture capital investor, insurance company registered with the Insurance Regulatory and Development Authority of India or any other category as specified by the Board from time to time, shall not be deemed to be promoter group merely by virtue of the fact that twenty per cent. or more of the equity share capital of the promoter is held by such person or entity:

**Provided further** that such financial institution, scheduled bank, [foreign portfolio investor other than individuals, corporate bodies and family offices], venture capital fund, alternative investment fund and foreign venture capital investor insurance company registered with the Insurance Regulatory and Development Authority of India or any other category as specified by the Board from time to time shall be treated as promoter group for the subsidiaries or companies promoted by them or for the mutual fund sponsored by them;

- (qq) "public financial institution" means a public financial institution as defined under the Companies Act, 2013;
- (rr) "public issue" means an initial public offer or a further public offer;
- (ss) "qualified institutional buyer" means:
  - i) a mutual fund, venture capital fund, alternative investment fund and foreign venture capital investor registered with the Board;
  - ii) foreign portfolio investors other than individuals, corporate bodies and family offices;

- iii) a public financial institution;
  - iv) a scheduled commercial bank;
  - v) a multilateral and bilateral development financial institution;
  - vi) a state industrial development corporation;
  - vii) an insurance company registered with the Insurance Regulatory and Development Authority of India;
  - viii) a provident fund with minimum corpus of twenty-five crore rupees;
  - ix) a pension fund with minimum corpus of twenty-five crore rupees;
  - x) National Investment Fund set up by resolution no. F. No. 2/3/2005-DDII dated November 23, 2005 of the Government of India published in the Gazette of India;
  - xi) insurance funds set up and managed by army, navy or air force of the Union of India; and
  - xii) insurance funds set up and managed by the Department of Posts, India; and
  - xiii) systemically important non-banking financial companies.
- (tt) “qualified institutions placement” means issue of eligible securities by a listed issuer to qualified institutional buyers on a private placement basis and includes an offer for sale of specified securities by the promoters and/or promoter group on a private placement basis, in terms of these regulations;
- (uu) “relative” means a relative as defined under the Companies Act, 2013.
- (vv) “retail individual investor” means an individual investor who applies or bids for specified securities for a value of not more than two lakhs rupees;
- (ww) “retail individual shareholder” means a shareholder who applies or bids for specified securities for a value of not more than two lakhs rupees;
- (xx) “rights issue” means an offer of specified securities by a listed issuer to the shareholders of the issuer as on the record date fixed for the said purpose;
- (yy) “schedule” means schedule annexed to these regulations;
- (zz) “scheduled commercial bank” means scheduled commercial banks as included in the second schedule to the Reserve Bank of India Act, 1934;
- (aaa) “self-certified syndicate bank” means a banker to an issue registered with the Board, which offers the facility of ASBA;

- (bbb) “selling shareholder(s)” means any shareholder of the issuer who is offering for sale the specified securities in a public issue in accordance with these Regulations;
- (ccc) “securities laws” means the Act, the Securities Contracts (Regulation) Act, 1956, the Depositories Act, 1996 and the rules and regulations made thereunder and the general or special orders, guidelines or circulars made or issued by the Board thereunder and the provisions of the Companies Act, 2013 or any previous company law and any subordinate legislation framed thereunder, which are administered by the Board ;
- (ddd) “SME exchange” means a trading platform of a recognised stock exchange having nationwide trading terminals permitted by the Board to list the specified securities issued in accordance with Chapter IX and includes a stock exchange granted recognition for this purpose but does not include the Main Board;
- (eee) “specified securities” means equity shares and convertible securities;
- (fff) [(eeee) “SR equity shares” means the equity shares of an issuer having superior voting rights compared to all other equity shares issued by that issuer.]
- (ggg) “stabilising agent” means a merchant banker who is responsible for stabilising the price of equity shares under a green shoe option, in terms of these regulations;
- (hhh) “stock exchange” means any recognised stock exchange having nationwide trading terminals chosen by the issuer on which securities of an issuer are listed or proposed to be listed for the purpose of a particular issue of specified securities under these regulations, other than an SM Exchange;
- (iii) “syndicate member” means an intermediary registered with the Board and who is permitted to accept bids, applications and place orders with respect to the issue and carry on the activity as an underwriter;
- (jjj) “systemically important non-banking financial companies” means a non-banking financial company registered with the Reserve Bank of India and recognised as systemically important non-banking financial company by the Reserve Bank of India;
- (kkk) “unlisted issuer” means an issuer which is not a listed issuer;
- (lll) “valuer” means a person who is registered under section 247 of the Companies Act, 2013 and the relevant rules framed thereunder or as specified by the Board;
- (mmm) “willful defaulter” means a person or an issuer who or which is categorized as a willful defaulter by any bank or financial institution (as defined under the

Companies Act, 2013) or consortium thereof, in accordance with the guidelines on willful defaulters issued by the Reserve Bank of India;

- (nnn) “working day” means all days on which commercial banks in the city as specified in the offer document are open for business;

**Explanation:** For the purpose of this clause, in respect of –

- (a) announcement of price band; and
  - (b) bid/issue period, working day shall mean all days, excluding Saturdays, Sundays and public holidays, on which commercial banks in the city as notified in the offer document are open for business;
  - (c) the time period between the bid/ issue closing date and the listing of the specified securities on the stock exchanges, working day shall mean all trading days of the stock exchanges, excluding Sundays and bank holidays, as per circulars issued by the Board.
- (2) All other words and expressions used but not defined in these regulations, but defined in the Act or the Companies Act, 2013, the Securities Contracts (Regulation) Act, 1956, the Depositories Act, 1996 and/or the rules and regulations made thereunder shall have the same meaning as respectively assigned to them in such statutes or rules or regulations or any statutory modification or re-enactment thereto, as the case maybe.

### Applicability of the regulations

3. Unless otherwise provided, these regulations shall apply to the following:
- (a) an initial public offer by an unlisted issuer;
  - (b) a rights issue by a listed issuer; where the aggregate value of the issue is fifty crore rupees or more;
  - (c) a further public offer by a listed issuer;
  - (d) a preferential issue by a listed issuer;
  - (e) a qualified institutions placement by a listed issuer;
  - (f) an initial public offer of Indian depository receipts;
  - (g) a rights issue of Indian depository receipts;
  - (h) an initial public offer by a small and medium enterprise;
  - (i) a listing on the innovators growth platform through an issue or without an issue; and
  - (j) a bonus issue by a listed issuer.

**Provided that** in case of rights issue of size less than fifty crore rupees, the issuer shall prepare the letter of offer in accordance with requirements as specified in these regulations

and file the same with the Board for information and dissemination on the Board's website.

**Provided further** that these regulations shall not apply to issue of securities under clause (b), (d) and (e) of sub-regulation (1) of regulation 9 of Securities and Exchange Board of India (Substantial Acquisition of Shares and Takeovers) Regulations, 2011.

## CHAPTER II



### INITIAL PUBLIC OFFER ON MAIN BOARD

#### PART I: ELIGIBILITY REQUIREMENTS

##### Reference date

4. Unless otherwise provided in this Chapter, an issuer making an initial public offer of specified securities satisfy the conditions of this Chapter as on the date of filing of the draft offer document with the Board and also as on the date of [filing] the offer document with the Registrar of Companies.

##### Entities not eligible to make an initial public offer

5. (1) An issuer shall not be eligible to make an initial public offer-
  - (a) if the issuer, any of its promoters, promoter group or directors or selling shareholders are debarred from accessing the capital market by the Board.
  - (b) if any of the promoters or directors of the issuer is a promoter or director of any other company which is debarred from accessing the capital market by the Board.
  - (c) if the issuer or any of its promoters or directors is a willful defaulter.
  - (d) if any of its promoters or directors is a fugitive economic offender.

**Explanation:** The restrictions under (a) and (b) above shall not apply to the persons or entities mentioned therein, who were debarred in the past by the Board and the period of debarment is already over as on the date of filing of the draft offer document with the Board.

- (2) An issuer shall not be eligible to make an initial public offer if there are any outstanding convertible securities or any other right which would entitle any person with any option to receive equity shares of the issuer:

**Provided that** the provisions of this sub-regulation shall not apply to:

- (a) outstanding options granted to employees, whether currently an employee or not, pursuant to an employee stock option scheme in compliance with the Companies Act, 2013, the relevant Guidance Note or accounting standards, if

any, issued by the Institute of Chartered Accountants of India or pursuant to the Companies Act, 2013, in this regard;

- (b) fully paid-up outstanding convertible securities which are required to be converted on or before the date of filing of the red herring prospectus (in case of book-built issues) or the prospectus (in case of fixed price issues), as the case maybe.

### Eligibility requirements for an initial public offer

6. (1) An issuer shall be eligible to make an initial public offer only if:
- (a) it has net tangible assets of at least three crore rupees, calculated on a restated and consolidated basis, in each of the preceding three full years (of twelve months each), of which not more than fifty per cent. are held in monetary assets:  
**Provided that** if more than fifty per cent of the net tangible assets are held in monetary assets, the issuer has utilised or made firm commitments to utilise such excess monetary assets in its business or project;  
**Provided further** that the limit of fifty per cent on monetary assets shall not be applicable in case the initial public offer is made entirely through an offer for sale.
  - (b) it has an average operating profit of at least fifteen crore rupees, calculated on a restated and consolidated basis, during the preceding three years (of twelve months each), with operating profit in each of these preceding three years;
  - (c) it has a net worth of at least one crore rupees in each of the preceding three full years (of twelve months each), calculated on a restated and consolidated basis;
  - (d) if it has changed its name within the last one year, at least fifty per cent. of the revenue, calculated on a restated and consolidated basis, for the preceding one full year has been earned by it from the activity indicated by its newname.
- (2) An issuer not satisfying the condition stipulated in sub-regulation (1) shall be eligible to make an initial public offer only if the issue is made through the book-building process and the issuer undertakes to allot at least seventy five per cent. of the net offer to qualified institutional buyers and to refund the full subscription money if it fails to do so.
- [(3) If an issuer has issued SR equity shares to its promoters/ founders, the said issuer shall be allowed to do an initial public offer of only ordinary shares for listing on the Main Board subject to compliance with the provisions of this Chapter and these clauses –

- i. the issuer shall be intensive in the use of technology, information technology, intellectual property, data analytics, bio-technology or nano-technology to provide products, services or business platforms with substantial value addition.
- ii. the SR shareholder shall not be part of the promoter group whose collective net worth is more than rupees 500 crores:  
Explanation: While determining the collective net worth, the investment of SR shareholder in the shares of the issuer company shall not be considered.
- iii. The SR shares were issued only to the promoters/ founders who hold an executive position in the issuer company;
- iv. The issue of SR equity shares had been authorized by a special resolution passed at a general meeting of the shareholders of the issuer, where the notice calling for such general meeting specifically provided for –
  - a. the size of issue of SR equity shares,
  - b. ratio of voting rights of SR equity shares vis-à-vis the ordinary shares,
  - c. rights as to differential dividends, if any
  - d. sunset provisions, which provide for a time frame for the validity of such SR equity shares,
  - e. matters in respect of which the SR equity shares would have the same voting right as that of the ordinary shares,
- v. The SR equity shares have been held for a period of at least 6 months prior to the filing of the red herring prospectus;
- vi. The SR equity shares shall have voting rights in the ratio of a minimum of 2:1 upto a maximum of 10:1 compared to ordinary shares and such ratio shall be in whole numbers only;
- vii. The SR equity shares shall have the same face value as the ordinary shares;
- viii. The issuer shall only have one class of SR equity shares;
- ix. The SR equity shares shall be equivalent to ordinary equity shares in all respects, except for having superior voting rights.]

### General conditions

7. (1) An issuer making an initial public offer shall ensure that:
  - (a) it has made an application to one or more stock exchanges to seek an in-

principle approval for listing of its specified securities on such stock exchanges and has chosen one of them as the designated stock exchange, in terms of **Schedule XIX;**

- (b) it has entered into an agreement with a depository for dematerialisation of the specified securities already issued and proposed to be issued;
  - (c) all its specified securities held by the promoters are in dematerialised form prior to filing of the Offer document;
  - (d) all its existing partly paid-up equity shares have either been fully paid-up or have been forfeited;
  - (e) it has made firm arrangements of finance through verifiable means towards seventy five percent. of the stated means of finance for a specific project proposed to be funded from the issue proceeds, excluding the amount to be raised through the proposed public issue or through existing identifiable internal accruals.
- (2) The amount for general corporate purposes, as mentioned in objects of the issue in the draft offer document and the offer document shall not exceed twenty-five per cent. of the amount being raised by the issuer.

**Explanation:** For the purposes of this regulation:

- (I) “project” means the object for which monies are proposed to be raised to cover the objects of the issue;
- (II) In case of an issuer which had been a partnership firm or a limited liability partnership, the track record of operating profit of the partnership firm or the limited liability partnership shall be considered only if the financial statements of the partnership business for the period during which the issuer was a partnership firm or a limited liability partnership, conform to and are revised in the format prescribed for companies under the Companies Act, 2013 and also comply with the following:
  - (a) adequate disclosures are made in the financial statements as required to be made by the issuer as per schedule III of the Companies Act,2013;
  - (b) the financial statements are duly certified by the statutory auditor stating that:
    - (i) the accounts and the disclosures made are in accordance with the provisions of schedule III of the Companies Act,2013;
    - (ii) the applicable accounting standards have been followed;
    - (iii) the financial statements present a true and fair view of the firm’s accounts;

- (III) In case of an issuer formed out of a division of an existing company, the track record of distributable profits of the division spun-off shall be considered only if the requirements regarding financial statements as provided for partnership firms or limited liability partnerships in Explanation (II) are complied with.

#### **Additional conditions for an offer for sale**

8. Only such fully paid-up equity shares may be offered for sale to the public, which have been held by the sellers for a period of at least one year prior to the filing of the draft offer document:

**Provided that** in case the equity shares received on conversion or exchange of fully paid-up compulsorily convertible securities including depository receipts are being offered for sale, the holding period of such convertible securities, including depository receipts, as well as that of resultant equity shares together shall be considered for the purpose of calculation of one year period referred in this sub-regulation.

**Provided further** that such holding period of one year shall be required to be complied with at the time of filing of the draft offer document.

**Explanation:** If the equity shares arising out of the conversion or exchange of the fully paid-up compulsorily convertible securities are being offered for sale, the conversion or exchange should be completed prior to filing of the offer document (i.e. red herring prospectus in the case of a book built issue and prospectus in the case of a fixed price issue), provided full disclosures of the terms of conversion or exchange are made in the draft offer document.

**Provided further** that the requirement of holding equity shares for a period of one year shall not apply:

- (a) in case of an offer for sale of a government company or statutory authority or corporation or any special purpose vehicle set up and controlled by any one or more of them, which is engaged in the infrastructure sector;
- (b) if the equity shares offered for sale were acquired pursuant to any scheme approved by a High Court under the sections 391 to 394 of Companies Act, 1956, or approved by a tribunal or the Central Government under the sections 230 to 234 of Companies Act, 2013, as applicable, in lieu of business and invested capital which had been in existence for a period of more than one year prior to approval of such scheme;
- (c) if the equity shares offered for sale were issued under a bonus issue on securities held for a period of at least one year prior to the filing of the draft offer document with the Board and further subject to the following:
  - (i) such specified securities being issued out of free reserves and share premium existing in the books of account as at the end of the financial year preceding the financial year in which the draft offer document is filed with the Board; and.

- (ii) such equity shares not being issued by utilisation of revaluation reserves or unrealized profits of the issuer.

## PART II: ISSUE OF CONVERTIBLE DEBT INSTRUMENTS AND WARRANTS

### Eligibility requirements for issue of convertible debt instruments

9. An issuer shall be eligible to make an initial public offer of convertible debt instruments even without making a prior public issue of its equity shares and listing thereof.

**Provided that** it is not in default of payment of interest or repayment of principal amount in respect of debt instruments issued by it to the public, if any, for a period of more than six months.

### Additional requirements for issue of convertible debt instruments

10. (1) In addition to other requirements laid down in these regulations, an issuer making an initial public offer of convertible debt instruments shall also comply with the following conditions:
- (a) it has obtained credit rating from at least one credit rating agency;
  - (b) it has appointed at least one debenture trustee in accordance with the provisions of the Companies Act, 2013 and the Securities and Exchange Board of India (Debenture Trustees) Regulations, 1993;
  - (c) it shall create a debenture redemption reserve in accordance with the provisions of the Companies Act, 2013 and rules made thereunder;
  - (d) if the issuer proposes to create a charge or security on its assets in respect of secured convertible debt instruments, it shall ensure that:
    - (i) such assets are sufficient to discharge the principal amount at all times;
    - (ii) such assets are free from any encumbrance;
    - (iii) where security is already created on such assets in favour of any existing lender or security trustee or the issue of convertible debt instruments is proposed to be secured by creation of security on a leasehold land, the consent of such lender or security trustee or lessor for a second or pari passu charge has been obtained and submitted to the debenture trustee before the opening of the issue;
    - (iv) the security or asset cover shall be arrived at after reduction of the liabilities having a first or prior charge, in case the convertible debt instruments are secured by a second or subsequent charge.
- (2) The issuer shall redeem the convertible debt instruments in terms of the offer document.

**Conversion of optionally convertible debt instruments into equity shares**

11. (1) The issuer shall not convert its optionally convertible debt instruments into equity shares unless the holders of such convertible debt instruments have sent their positive consent to the issuer and non-receipt of reply to any notice sent by the issuer for this purpose shall not be construed as consent for conversion of any convertible debt instruments.
- (2) Where the value of the convertible portion of any listed convertible debt instruments issued by an issuer exceeds ten crore rupees and the issuer has not determined the conversion price of such convertible debt instruments at the time of making the issue, the holders of such convertible debt instruments shall be given the option of not converting the convertible portion into equity shares:
- Provided that** where the upper limit on the price of such convertible debt instruments and justification thereon is determined and disclosed to the investors at the time of making the issue, it shall not be necessary to give such option to the holders of the convertible debt instruments for converting the convertible portion into equity share capital within the said upper limit.
- (3) Where an option is to be given to the holders of the convertible debt instruments in terms of sub-regulation (2) and if one or more of such holders do not exercise the option to convert the instruments into equity share capital at a price determined in the general meeting of the shareholders, the issuer shall redeem that part of the instruments within one month from the last date by which option is to be exercised, at a price which shall not be less than its face value.
- (4) The provision of sub-regulation (2) shall not apply if such redemption is as per the disclosures made in the offer document.

**Issue of convertible debt instruments for financing**

12. An issuer shall not issue convertible debt instruments for financing or for providing loans to or for acquiring shares of any person who is part of the promoter group or group companies:

**Provided that** an issuer shall be eligible to issue fully convertible debt instruments for these purposes if the period of conversion of such debt instruments is less than eighteen months from the date of issue of such debt instruments.

**Issue of warrants**

13. An issuer shall be eligible to issue warrants in an initial public offer subject to the following:
- (a) the tenure of such warrants shall not exceed eighteen months from the date of their allotment in the initial public offer;
  - (b) a specified security may have one or more warrants attached to it;

- (c) the price or formula for determination of exercise price of the warrants shall be determined upfront and disclosed in the offer document and at least twenty-five per cent. of the consideration amount based on the exercise price shall also be received upfront;

**Provided that** in case the exercise price of warrants is based on a formula, twenty-five per cent consideration amount based on the cap price of the price band determined for the linked equity shares or convertible securities shall be received upfront.

- (d) in case the warrant holder does not exercise the option to take equity shares against any of the warrants held by the warrant holder, within three months from the date of payment of consideration, such consideration made in respect of such warrants shall be forfeited by the issuer.

### PART III: PROMOTERS' CONTRIBUTION

#### Minimum promoters' contribution

14. (1) The promoters of the issuer shall hold at least twenty per cent. of the post-issue capital:

**Provided that** in case the post-issue shareholding of the promoters is less than twenty per cent., alternative investment funds or foreign venture capital investors or scheduled commercial banks or public financial institutions or insurance companies registered with Insurance Regulatory and Development Authority of India may contribute to meet the shortfall in minimum contribution as specified for the promoters, subject to a maximum of ten per cent. of the post-issue capital without being identified as promoter(s).

**Provided further** that the requirement of minimum promoters' contribution shall not apply in case an issuer does not have any identifiable promoter

- (2) The minimum promoters' contribution shall be as follows:
- a) the promoters shall contribute twenty per cent. as stipulated in sub-regulation (1), as the case may be, either by way of equity shares, [including SR equity shares held, if any,] or by way of subscription to convertible securities:
- Provided that** if the price of the equity shares allotted pursuant to conversion is not pre-determined and not disclosed in the offer document, the promoters shall contribute only by way of subscription to the convertible securities being issued in the public issue and shall undertake in writing to subscribe to the equity shares pursuant to conversion of such securities.
- b) in case of any issue of convertible securities which are convertible or exchangeable on different dates and if the promoters' contribution is by way of

equity shares (conversion price being pre-determined), such contribution shall not be at a price lower than the weighted average price of the equity share capital arising out of conversion of such securities.

- c) subject to the provisions of clause (a) and (b) above, in case of an initial public offer of convertible debt instruments without a prior public issue of equity shares, the promoters shall bring in a contribution of at least twenty per cent. of the project cost in the form of equity shares, subject to contributing at least twenty per cent. of the issue size from their own funds in the form of equity shares:

**Provided that** if the project is to be implemented in stages, the promoters' contribution shall be with respect to total equity participation till the respective stage vis-à-vis the debt raised or proposed to be raised through the public issue.

- (3) The promoters shall satisfy the requirements of this regulation at least one day prior to the date of opening of the issue.
- (4) In case the promoters have to subscribe to equity shares or convertible securities towards minimum promoters' contribution, the amount of promoters' contribution shall be kept in an escrow account with a scheduled commercial bank, which shall be released to the issuer along with the release of the issue proceeds:

**Provided that** where the promoters' contribution has already been brought in and utilised, the issuer shall give the cash flow statement disclosing the use of such funds in the offer document;

**Provided further** that where the minimum promoters' contribution is more than one hundred crore rupees and the initial public offer is for partly paid shares, the promoters shall bring in at least one hundred crore rupees before the date of opening of the issue and the remaining amount may be brought on a pro-rata basis before the calls are made to the public.

**Explanation:** For the purpose of this regulation:

- (I) Promoters' contribution shall be computed on the basis of the post-issue expanded capital:
- (a) assuming full proposed conversion of convertible securities into equity shares;
- (b) assuming exercise of all vested options, where any employee stock options are outstanding at the time of initial public offer in terms of proviso (a) to sub-regulation (2) of regulation 5.
- (II) For computation of "weighted average price":
- (c) "weight" means the number of equity shares arising out of conversion of such specified securities into equity shares at various stages;

- (d) “price” means the price of equity shares on conversion arrived at after taking into account the predetermined conversion price at various stages.

**Securities ineligible for minimum promoters’ contribution**

15. (1) For the computation of minimum promoters’ contribution, the following specified securities shall not be eligible:

- (a) specified securities acquired during the preceding three years, if these are:
- (i) acquired for consideration other than cash and revaluation of assets or capitalisation of intangible assets is involved in such transaction; or
  - (ii) resulting from a bonus issue by utilisation of revaluation reserves or unrealized profits of the issuer or from bonus issue against equity shares which are ineligible for minimum promoters’ contribution;
- (b) specified securities acquired by the promoters and alternative investment funds or foreign venture capital investors or scheduled commercial banks or public financial institutions or insurance companies registered with Insurance Regulatory and Development Authority of India, during the preceding one year at a price lower than the price at which specified securities are being offered to the public in the initial public offer:

**Provided that** nothing contained in this clause shall apply:

- (i) if the promoters and alternative investment funds, as applicable, pay to the issuer the difference between the price at which the specified securities are offered in the initial public offer and the price at which the specified securities had been acquired;
  - (ii) if such specified securities are acquired in terms of the scheme under sections 391 to 394 of the Companies Act, 1956 or sections 230 to 234 of the Companies Act, 2013, as approved by a High Court or a tribunal or the Central Government, as applicable, by the promoters in lieu of business and invested capital that had been in existence for a period of more than one year prior to such approval to an initial public offer by a government company, statutory authority or corporation or any special purpose vehicle set up by any of them, which is engaged in the infrastructure sector;
- (c) specified securities allotted to the promoters and alternative investment funds during the preceding one year at a price less than the issue price, against funds brought in by them during that period, in case of an issuer formed by conversion of one or more partnership firms or limited liability partnerships, where the partners of the erstwhile partnership firms or limited liability partnerships are the promoters of the issuer and there is no change in the management:

**Provided that** specified securities, allotted to the promoters against the capital existing in such firms for a period of more than one year on a continuous basis, shall be eligible;

- (d) specified securities pledged with any creditor.
- (2) Specified securities referred to in clauses (a) and (c) of sub-regulation (1) shall be eligible for the computation of promoters' contribution if such securities are acquired pursuant to a scheme which has been approved by a High Court under the sections 391 to 394 of the Companies Act, 1956 or approved by a tribunal or the Central Government under sections 230 to 234 of the Companies Act, 2013.

## PART IV: LOCK-IN AND RESTRICTIONS ON TRANSFERABILITY

### Lock-in of specified securities held by the promoters

16. (1) The specified securities held by the promoters shall not be transferable (hereinafter referred to as "lock-in") for the periods as stipulated here under:
- (a) minimum promoters' contribution including contribution made by alternative investment funds or foreign venture capital investors or scheduled commercial banks or public financial institutions or insurance companies registered with Insurance Regulatory and Development Authority of India referred to in proviso to sub-regulation (1) of regulation 14, shall be locked-in for a period of three years from the date of commencement of commercial production or date of allotment in the initial public offer, whichever is later;
  - (b) promoters' holding in excess of minimum promoters' contribution shall be locked-in for a period of one year from the date of allotment in the initial public offer.

**Explanation:** For the purposes of this clause, the expression "date of commencement of commercial production" means the last date of the month in which commercial production of the project in respect of which the funds raised are proposed to be utilised as stated in the offer document, is expected to commence.

- [(2) The SR equity shares shall be under lock-in until conversion into equity shares having voting rights same as that of ordinary shares or shall be locked-in for a period specified in sub-regulations (1), whichever is later.]

### Lock-in of specified securities held by persons other than the promoters

17. The entire pre-issue capital held by persons other than the promoters shall be locked-in for a period of one year from the date of allotment in the initial public offer:

**Provided that** nothing contained in this regulation shall apply to:

- a) equity shares allotted to employees, whether currently an employee or not, under an

employee stock option or employee stock purchase scheme of the issuer prior to the initial public offer, if the issuer has made full disclosures with respect to such options or scheme in accordance with **Part A of Schedule VI**;

- b) equity shares held by an employee stock option trust or transferred to the employees by an employee stock option trust pursuant to exercise of options by the employees, whether currently employees or not, in accordance with the employee stock option plan or employee stock purchase scheme.

**Provided that** the equity shares allotted to the employees shall be subject to the provisions of lock-in as specified under the Securities and Exchange Board of India (Share Based Employee Benefits) Regulations, 2014.

- c) equity shares held by a venture capital fund or alternative investment fund of category I or Category II or a foreign venture capital investor:

**Provided that** such equity shares shall be locked in for a period of at least one year from the date of purchase by the venture capital fund or alternative investment fund or foreign venture capital investor.

**Explanation:** For the purpose of clause (c), in case such equity shares have resulted pursuant to conversion of fully paid-up compulsorily convertible securities, the holding period of such convertible securities as well as that of resultant equity shares together shall be considered for the purpose of calculation of one year period and convertible securities shall be deemed to be fully paid-up, if the entire consideration payable thereon has been paid and no further consideration is payable at the time of their conversion.

#### **Lock-in of specified securities lent to stabilising agent under the green shoe option**

18. The lock-in provisions shall not apply with respect to the specified securities lent to stabilising agent for the purpose of green shoe option, during the period starting from the date of lending of such specified securities and ending on the date on which they are returned to the lender in terms of sub-regulation (5) or (6) of regulation 57:

**Provided that** the specified securities shall be locked-in for the remaining period from the date on which they are returned to the lender.

#### **Lock-in of party-paid securities**

19. If the specified securities which are subject to lock-in are partly paid-up and the amount called-upon such specified securities is less than the amount called-upon the specified securities issued to the public, the lock-in shall end only on the expiry of three years after such specified securities have become *pari passu* with the specified securities issued to the public.

**Inscription or recording of non-transferability**

20. The certificates of specified securities which are subject to lock-in shall contain the inscription “non-transferable” and specify the lock-in period and in case such specified securities are dematerialised, the issuer shall ensure that the lock-in is recorded by the depository.

**Pledge of locked-in specified securities**

21. Specified securities [,except SR equity shares,] held by the promoters and locked-in may be pledged as a collateral security for a loan granted by a scheduled commercial bank or a public financial institution or a systemically important non-banking finance company or a housing finance company, subject to the following:
- a) if the specified securities are locked-in in terms of clause (a) of regulation 16, the loan has been granted to the issuer company or its subsidiary(ies) for the purpose of financing one or more of the objects of the issue and pledge of specified securities is one of the terms of sanction of the loan;
  - b) if the specified securities are locked-in in terms of clause (b) of regulation 16 and the pledge of specified securities is one of the terms of sanction of the loan.

**Provided that** such lock-in shall continue pursuant to the invocation of the pledge and such transferee shall not be eligible to transfer the specified securities till the lock-in period stipulated in these regulations has expired.

**Transferability of locked-in specified securities**

22. Subject to the provisions of Securities and Exchange Board of India (Substantial Acquisition of shares and Takeovers) Regulations, 2011, the specified securities [,except SR equity shares,] held by the promoters and locked-in as per regulation 16, may be transferred to another promoter or any person of the promoter group or a new promoter and the specified securities held by persons other than the promoters and locked-in as per regulation 17, may be transferred to any other person holding the specified securities which are locked-in along with the securities proposed to be transferred:

**Provided that** the lock-in on such specified securities shall continue for the remaining period with the transferee and such transferee shall not be eligible to transfer them till the lock-in period stipulated in these regulations has expired.

**PART V: APPOINTMENT OF LEAD MANAGERS, OTHER INTERMEDIARIES AND COMPLIANCE OFFICER**

23. (1) The issuer shall appoint one or more merchant bankers, which are registered with the Board, as lead manager(s) to the issue.
- (2) Where the issue is managed by more than one lead manager, the rights, obligations and responsibilities, relating *inter alia* to disclosures, allotment, refund and

underwriting obligations, if any, of each lead manager shall be predetermined and be disclosed in the draft offer document and the offer document as specified in **Schedule I**.

- (3) At least one lead manager to the issue shall not be an associate (as defined under the Securities and Exchange Board of India (Merchant Bankers) Regulations, 1992) of the issuer and if any of the lead manager is an associate of the issuer, it shall disclose itself as an associate of the issuer and its role shall be limited to marketing of the issue.
- (4) The issuer shall, in consultation with the lead manager(s), appoint other intermediaries which are registered with the Board after the lead manager(s) have independently assessed the capability of other intermediaries to carry out their obligations.
- (5) The issuer shall enter into an agreement with the lead manager(s) in the format specified in **Schedule II** and enter into agreements with other intermediaries as required under the respective regulations applicable to the intermediary concerned:

**Provided that** such agreements may include such other clauses as the issuer and the intermediaries may deem fit without diminishing or limiting in any way the liabilities and obligations of the lead manager(s), other intermediaries and the issuer under the Act, the Companies Act, 2013 or the Companies Act, 1956 (to the extent applicable), the Securities Contracts (Regulation) Act, 1956, the Depositories Act, 1996 and the rules and regulations made thereunder or any statutory modification or statutory enactment thereof:

**Provided further** that in case of ASBA process, the issuer shall take cognisance of the deemed agreement of the issuer with the self-certified syndicate banks.

- (6) The issuer shall, in case of an issue made through the book building process, appoint syndicate member(s) and in the case of any other issue, appoint bankers to issue, at centres in the manner specified in **Schedule XII**.
- (7) The issuer shall appoint a registrar to the issue, registered with the Board, which has connectivity with all the depositories:

**Provided that** if the issuer itself is a registrar, it shall not appoint itself as registrar to the issue;

**Provided further** that the lead manager shall not act as a registrar to the issue in which it is also handling the post-issue responsibilities.

- (8) The issuer shall appoint a compliance officer who shall be responsible for monitoring the compliance of the securities laws and for redressal of investors' grievances.

## PART VI: DISCLOSURES IN AND FILING OF OFFER DOCUMENTS

### Disclosures in the draft offer document and offer document

24. (1) The draft offer document and offer document shall contain all material disclosures which are true and adequate to enable the applicants to take an informed investment decision.
- (2) Without prejudice to the generality of sub-regulation (1), the red-herring prospectus, and prospectus shall contain:
- (a) disclosures specified in the Companies Act, 2013 and;
  - (b) disclosures specified in **Part A of Schedule VI**.
- (3) The lead manager(s) shall exercise due diligence and satisfy themselves about all aspects of the issue including the veracity and adequacy of disclosure in the draft offer document and the offer document.
- (4) The lead manager(s) shall call upon the issuer, its promoters and its directors or in case of an offer for sale, also the selling shareholders, to fulfill their obligations as disclosed by them in the draft offer document and the offer document and as required in terms of these regulations.
- (5) The lead manager(s) shall ensure that the information contained in the draft offer document and offer document and the particulars as per restated audited financial statements in the offer document are not more than six month sold from the issue opening date.

### Filing of the draft offer document and offer document

25. (1) Prior to making an initial public offer, the issuer shall file three copies of the draft offer document with the concerned regional office of the Board under the jurisdiction of which the registered office of the issuer company is located, in accordance with Schedule IV, along with fees as specified in Schedule III, through the lead manager(s).
- (2) The lead manager(s) shall submit the following to the Board along with the draft offer document:
- a) a certificate, confirming that an agreement has been entered into between the issuer and the lead manager(s);
  - b) a due diligence certificate as per Form A of **Schedule V**;
  - c) in case of an issue of convertible debt instruments, a due diligence certificate from the debenture trustee as per Form B of **Schedule V**;
- (3) The issuer shall also file the draft offer document with the stock exchange(s) where the specified securities are proposed to be listed, and submit to the stock exchange(s), the

Permanent Account Number, bank account number and passport number of its promoters where they are individuals, and Permanent Account Number, bank account number, company registration number or equivalent and the address of the Registrar of Companies with which the promoter is registered, where the promoter is a body corporate.

- (4) The Board may specify changes or issue observations, if any, on the draft offer document within thirty days from the later of the following dates:
  - a) the date of receipt of the draft offer document under sub-regulation (1); or
  - b) the date of receipt of satisfactory reply from the lead manager(s), where the Board has sought any clarification
  - c) or additional information from them; or the date of receipt of clarification or information from any regulator or agency, where the Board has sought any clarification or information from such regulator or agency; or
  - d) the date of receipt of a copy of in-principle approval letter issued by the stock exchange(s).
- (5) If the Board specifies any changes or issues observations on the draft offer document, the issuer and lead manager(s) shall carry out such changes in the draft offer document and shall submit to the Board an updated draft offer document complying with the observations issued by the Board and highlighting all changes made in the draft offer document and before filing the offer documents with the Registrar of Companies or an appropriate authority, as applicable.
- (6) If there are any changes in the draft offer document in relation to the matters specified in **Schedule XVI**, an updated offer document or a fresh draft offer document, as the case may be, shall be filed with the Board along with fees specified in **Schedule III**.
- (7) Copy of the offer documents shall also be filed with the Board and the stock exchange(s) through the lead manager(s) promptly after filing the offer documents with Registrar of Companies.
- (8) The draft offer document and the offer document shall also be furnished to the Board in a soft copy.
- (9) The lead manager(s) shall submit the following documents to the Board after issuance of observations by the Board or after expiry of the period stipulated in sub-regulation (4) of regulation 25 if the Board has not issued observations:
  - a) a statement certifying that all changes, suggestions and observations made by the Board have been incorporated in the offer document;
  - b) a due diligence certificate as per **Form C of Schedule V**, at the time of filing of the offer document;

- c) a copy of the resolution passed by the board of directors of the issuer for allotting specified securities to promoter(s) towards amount received against promoters' contribution, before opening of the issue;
- d) a certificate from a statutory auditor, before opening of the issue, certifying that promoters' contribution has been received in accordance with these regulations, accompanying therewith the names and addresses of the promoters who have contributed to the promoters' contribution and the amount paid and credited to the issuer's bank account by each of them towards such contribution;
- e) a due diligence certificate as per **Form D** of **Schedule V**, in the event the issuer has made a disclosure of any material development by issuing a public notice pursuant to par 4 of **Schedule IX**.

**Draft offer document and offer document to be available to the public**

26. (1) The draft offer document filed with the Board shall be made public for comments, if any, for a period of at least twenty one days from the date of filing, by hosting it on the websites of the Board, stock exchanges where specified securities are proposed to be listed and lead manager(s) associated with the issue.
- (2) The issuer shall, within two days of filing the draft offer document with the Board, make a public announcement in one English national daily newspaper with wide circulation, one Hindi national daily newspaper with wide circulation and one regional language newspaper with wide circulation at the place where the registered office of the issuer is situated, disclosing the fact of filing of the draft offer document with the Board and inviting the public to provide their comments to the Board, the issuer or the lead manager(s) in respect of the disclosures made in the draft offer document.
- (3) The lead manager(s) shall, after expiry of the period stipulated in sub-regulation (1), file with the Board, details of the comments received by them or the issuer from the public, on the draft offer document, during that period and the consequential changes, if any, that are required to be made in the draft offer document.
- (4) The issuer and the lead manager(s) shall ensure that the offer documents are hosted on the websites as required under these regulations and its contents are the same as the versions as filed with the Registrar of Companies, Board and the stock exchanges, as applicable.
- (5) The lead manager(s) and the stock exchanges shall provide copies of the offer document to the public as and when requested and may charge a reasonable sum for providing a copy of the same.

## PART VII - PRICING

### Face value of equity shares

27. The disclosure about the face value of equity shares shall be made in the draft offer document, offer document, advertisements and application forms, along with the price band or the issue price in identical font size.

### Pricing

28. (1) The issuer may determine the price of equity shares, and in case of convertible securities, the coupon rate and the conversion price, in consultation with the lead manager(s) or through the book building process, as the case maybe.
- (2) The issuer shall undertake the book building process in the manner specified in Schedule XIII.

### Price and price band

29. (1) The issuer may mention a price or a price band in the offer document (in case of a fixed price issue) and a floor price or a price band in the red herring prospectus (in case of a book built issue) and determine the price at a later date before registering the prospectus with the Registrar of Companies:

**Provided that** the prospectus filed with the Registrar of Companies shall contain only one price or the specific coupon rate, as the case may be.

- (2) The cap on the price band, and the coupon rate in case of convertible debt instruments, shall be less than or equal to one hundred and twenty percent of the floor price.
- (3) The floor price or the final price shall not be less than the face value of the specified securities.
- (4) Where the issuer opts not to make the disclosure of the floor price or price band in there adhering prospectus, the issuer shall announce the floor price or the price band at least two working days before the opening of the issue in the same newspapers in which the pre-issue advertisement was released or together with the pre-issue advertisement in the format prescribed under Part A of Schedule X.
- (5) The announcement referred to in sub-regulation (4) shall contain relevant financial ratios computed for both upper and lower end of the price band and also a statement drawing attention of the investors to the section titled "basis of issue price" of the offer document.
- (6) The announcement referred to in sub-regulation (4) and the relevant financial ratios referred to in sub-regulation (5) shall be disclosed on the websites of the stock exchange(s) and shall also be pre-filled in the application forms to be made available on the websites of the stock exchange(s).

**Differential pricing**

30. (1) The issuer may offer its specified securities at different prices, subject to the following:
- a) retail individual investors or retail individual shareholders or employees entitled for reservation made under regulation 33 may be offered specified securities at a price not lower than by more than ten per cent. of the price at which net offer is made to other categories of applicants, excluding anchor investors;
  - b) in case of a book-built issue, the price of the specified securities offered to the anchor investors shall not be lower than the price offered to other applicants;
  - c) In case the issuer opts for the alternate method of book building in terms of **Part D of Schedule XIII**, the issuer may offer the specified securities to its employees at a price not lower than by more than ten per cent. of the floor price.
- (2) Discount, if any, shall be expressed in rupee terms in the offer document.

**PART VIII: ISSUANCE CONDITIONS AND PROCEDURE****Minimum offer to public**

31. The minimum offer to the public shall be subject to the provisions of clause (b) of sub-rule (2) of rule 19 of Securities Contracts (Regulations) Rules, 1957.

**Allocation in the net offer**

32. (1) In an issue made through the book building process under sub-regulation (1) of regulation 6 the allocation in the net offer category shall be as follows:
- a) Not less than thirty-five per cent. to retail individual investors;
  - b) Not less than fifteen per cent. to non-institutional investors;
  - c) Not more than fifty per cent. to qualified institutional buyers, five per cent. of which shall be allocated to mutual funds:

**Provided that** the unsubscribed portion in either of the categories specified in clauses (a) or (b) may be allocated to applicants in any other category:

**Provided further** that in addition to five per cent allocation available in terms of clause (c), mutual funds shall be eligible for allocation under the balance available for qualified institutional buyers.

- (2) In an issue made through the book building process under sub-regulation (2) of regulation 6, the allocation in the net offer category shall be as follows:
- a) Not more than ten per cent. to retail individual investors;
  - b) Not more than fifteen per cent. to non-institutional investors;

- c) Not less than seventy five percent .to qualified institutional buyers, five percent.  
Of which shall be allocated to mutual funds

**Provided that** the unsubscribed portion in either of the categories specified in clauses (a) or (b) may be allocated to applicants in the other category:

**Provided further** that in addition to five per cent allocation available in terms of clause (c), mutual funds shall be eligible for allocation under the balance available for qualified institutional buyers.

- (3) In an issue made through the book building process, the issuer may allocate up to sixty per cent. of the portion available for allocation to qualified institutional buyers to anchor investors in accordance with the conditions specified in this regard in **Schedule XIII**.
- (4) In an issue made other than through the book building process, the allocation in the net offer category shall be made as follows:
- i. minimum fifty per cent. to retail individual investors; and
  - ii. remaining to:
    - (i) individual applicants other than retail individual investors; and
    - (ii) other investors including corporate bodies or institutions, irrespective of the number of specified securities applied for;

**Provided that** the unsubscribed portion in either of the categories specified in clauses (a) or (b) may be allocated to applicants in the other category.

**Explanation:** For the purpose of sub-regulation (4), if the retail individual investor category is entitled to more than fifty per cent. of the issue size on a proportionate basis, the retail individual investors shall be allocated that higher percentage.

#### **Reservation on a competitive basis**

33. (1) The issuer may make reservations on a competitive basis out of the issue size excluding promoters' contribution in favor of the following categories of persons:
- a) employees;
  - b) shareholders (other than promoters and promoter group) of listed subsidiaries or listed promoter companies.

**Provided that** the issuer shall not make any reservation for the lead manager(s), registrar, syndicate member(s), their promoters, directors and employees and for the group or associate companies (as defined under the Companies Act, 2013) of the lead manager(s), registrar and syndicate member(s) and their promoters, directors and employees.

- (2) The reservations on a competitive basis shall be subject to the following conditions:
- (a) The aggregate of reservations for employees shall not exceed five per cent. of the post-issue capital of the issuer and the value of allotment to any employee shall not exceed two lakhs rupees:  
**Provided that** in the event of under-subscription in the employee reservation portion, the unsubscribed portion may be allotted on a proportionate basis, for a value in excess of two lakhs rupees, subject to the total allotment to an employee not exceeding five lakhs rupees.
  - (b) Reservation for shareholders shall not exceed temper cent of their issue size;
  - (c) no further application for subscription in the net offer can be made by persons (except an employee and retail individual shareholder) in favour of whom reservation on a competitive basis is made;
  - (d) any unsubscribed portion in any reserved category maybe added to any other reserved category and the unsubscribed portion, if any, after such inter-se adjustments among the reserved categories shall be added to the net offer category;
  - (e) in case of under-subscription in the net offer category, spill-over to the extent of under- subscription shall be permitted from the reserved category to theretofore.
- (3) An applicant in any reserved category may make an application for any number of specified securities, but not exceeding the reserved portion for that category.

#### **Abridged prospectus**

34. (1) The abridged prospectus shall contain the disclosures as specified in **Part E** of **Schedule VI** and shall not contain any matter extraneous to the contents of the offer document.
- (2) Every application form distributed by the issuer or any other person in relation to an issue shall be accompanied by a copy of the abridged prospectus.

#### **ASBA**

35. The issuer shall accept bids using only the ASBA facility in the manner specified by the Board.

#### **Availability of issue material**

36. The lead manager(s) shall ensure availability of the offer document and other issue material including application forms to stock exchanges, syndicate members, registrar to issue, registrar and share transfer agents, depository participants, stock brokers, underwriters, bankers to the issue, and self-certified syndicate banks before the opening of the issue.

### Prohibition on payment of incentives

37. Any person connected with the issue shall not offer any incentive, whether direct or indirect, in any manner, whether in cash or kind or services or otherwise to any person for making an application in the initial public offer, except for fees or commission for services rendered in relation to the issue.

### Security deposit

38. (1) The issuer shall, before the opening of the subscription list, deposit with the designated stock exchange, an amount calculated at the rate of one per cent. of the issue size available for subscription to the public in the manner specified by Board and/or stock exchange(s).
- (2) The amount specified in sub-regulation (1) shall be refundable or forfeitable in the manner specified by the Board.

### IPO grading

39. The issuer may obtain grading for its initial public offer from one or more credit rating agencies registered with the Board.

### Underwriting

40. (1) If the issuer making an initial public offer, other than through the book building process, desires to have the issue underwritten, it shall appoint underwriters in accordance with the Securities and Exchange Board of India (Underwriters) Regulations, 1993.
- (2) If the issuer makes a public issue through the book building process,
- a) the issue shall be underwritten by lead manager(s) and syndicate member(s):  
**Provided that** at least seventy-five per cent of the net offer proposed to be compulsorily allotted to qualified institutional buyers for the purpose of compliance of the eligibility conditions specified in sub-regulation (2) of regulation 6, cannot be underwritten.
  - b) the issuer shall, prior to filing the prospectus, enter into underwriting agreement with the lead manager(s) and syndicate member(s), indicating therein the number of specified securities which they shall subscribe to at the predetermined price in the event of under- subscription in the issue.
  - c) if the syndicate member(s) fail to fulfil their underwriting obligations, the lead manager(s) shall fulfill the underwriting obligations.
  - d) the lead manager(s) and syndicate member(s) shall not subscribe to the issue in any manner except for fulfilling their underwriting obligations.

- e) in case of every underwritten issue, the lead manager(s) shall undertake minimum underwriting obligations as specified in the Securities and Exchange Board of India (Merchant Bankers) Regulations, 1992.
- f) where the issue is required to be underwritten, the underwriting obligations should at least to the extent of minimum subscription.

### Monitoring agency

41. (1) If the issue size, excluding the size of offer for sale by selling shareholders, exceeds one hundred crore rupees, the issuer shall make arrangements for the use of proceeds of the issue to be monitored by a public financial institution or by a scheduled commercial bank named in the offer document as bankers of the issuer:

**Provided that** nothing contained in this clause shall apply to an issue of specified securities made by a bank or public financial institution or an insurance company.

- (2) The monitoring agency shall submit its report to the issuer in the format specified in **Schedule XI** on a quarterly basis, till at least ninety-five per cent. of the proceeds of the issue, excluding the proceeds raised for general corporate purposes, have been utilized.
- (3) The board of directors and the management of the issuer shall provide their comments on the findings of the monitoring agency as specified in **Schedule XI**.
- (4) The issuer shall, within forty five days from the end of each quarter, publicly disseminate the report of the monitoring agency by uploading the same on its website as well as submitting the same to the stock exchange(s) on which its equity shares are listed.

### Public communications, publicity materials, advertisements and research reports

42. All public communication, publicity materials, advertisements and research reports shall comply with the provisions of **Schedule IX**.

### Issue-related advertisements

43. (1) Subject to the provisions of the Companies Act, 2013, the issuer shall, after filing the red herring prospectus (in case of a book built issue) or prospectus (in case of fixed price issue) with the Registrar of Companies, make a pre-issue advertisement in one English national daily newspaper with wide circulation, Hindi national daily newspaper with wide circulation and one regional language newspaper with wide circulation at the place where the registered office of the issuer is situated.
- (2) The pre-issue advertisement shall be in the format and shall contain the disclosures specified in **Part A** of **Schedule X**.

**Provided that** the disclosures in relation to price band or floor price and financial ratios contained therein shall only be applicable where the issuer opts to announce the price band or floor price along with the pre-issue advertisement pursuant to sub-regulation (4) of regulation 29.

- (3) The issuer may release advertisements for issue opening and issue closing, which shall be in the formats specified in **Parts B and C of Schedule X**.
- (4) During the period the issue is open for subscription, no advertisement shall be released giving an impression that the issue has been fully subscribed or oversubscribed or indicating investors' response to the issue.

#### **Opening of the issue**

44. (1) Subject to the compliance with the provisions of the Companies Act, 2013, a public issue may be opened within twelve months from the date of issuance of the observations by the Board under regulation 25;
- (2) An issue shall be opened after at least three working days from the date of filing, the red herring prospectus, in case of a book built issue and the prospectus, in case of a fixed price issue, with the Registrar of Companies.

#### **Minimum subscription**

45. (1) The minimum subscription to be received in the issue shall be at least ninety per cent. of the offer through the offer document, except in case of an offer for sale of specified securities:

**Provided that** the minimum subscription to be received shall be subject to the allotment of minimum number of specified securities, as prescribed under the Securities Contracts (Regulation) Rules, 1957.

- (2) In the event of non-receipt of minimum subscription referred to in sub-regulation (1), all application monies received shall be refunded to the applicants forthwith, but not later than fifteen days from the closure of the issue.

#### **Period of subscription**

46. (1) Except as otherwise provided in these regulations, an initial public offer shall be kept open for at least three working days and not more than ten working days.
- (2) In case of a revision in the price band, the issuer shall extend the bidding (issue) period disclosed in the red herring prospectus, for a minimum period of three working days, subject to the provisions of sub-regulation(1).
- (3) In case of force majeure, banking strike or similar circumstances, the issuer may, for reasons to be recorded in writing, extend the bidding (issue) period disclosed in the red herring prospectus (in case of a book built issue) or the issue period disclosed in

the prospectus (in case of a fixed price issue), for a minimum period of three working days, subject to the provisions of sub-regulation(1).

#### **Application and minimum application value**

47. (1) A person shall not make an application in the net offer category for a number of specified securities that exceeds the total number of specified securities offered to the public.

**Provided that** the maximum application by non-institutional investors shall not exceed total number of specified securities offered in the issue less total number of specified securities offered in the issue to qualified institutional buyers.

- (2) The issuer shall stipulate in the offer document the minimum application size in terms of number of specified securities which shall fall within the range of minimum application value of ten thousand rupees to fifteen thousand rupees.
- (3) The issuer shall invite applications in multiples of the minimum application value, an illustration whereof is given in **Part B of Schedule XIV**
- (4) The minimum sum payable on application per specified security shall be at least twenty-five per cent. of the issue price:

**Provided that** in case of an offer for sale, the full issue price for each specified security shall be payable at the time of application.

**Explanation:** For the purpose of this regulation, “minimum application value” shall be with reference to the issue price of the specified securities and not with reference to the amount payable on application.

#### **Manner of calls**

48. If the issuer proposes to receive subscription monies in calls, it shall ensure that the outstanding subscription money is called within twelve months from the date of allotment in the issue and if any applicant fails to pay the call money within the said twelve months, the equity shares on which there are calls in arrears along with the subscription money already paid on such shares shall be forfeited:

**Provided that** it shall not be necessary to call the outstanding subscription money within twelve months, if the issuer has appointed a monitoring agency interim of regulation 41.

#### **Allotment procedure and basis of allotment**

49. (1) The issuer shall not make an allotment pursuant to a public issue if the number of prospective allotment less than one thousand.
- (2) The issuer shall not make any allotment in excess of the specified securities offered through the offer document except in case of oversubscription for the purpose of rounding off to make allotment, in consultation with the designated stock exchange.

**Provided that** in case of oversubscription, an allotment of not more than one per cent. Of the net offer to public may be made for the purpose of making allotment in minimum lots.

- (3) The allotment of specified securities to applicants other than to the retail individual investors and anchor investors shall be on a proportionate basis within the respective investor categories and the number of securities allotted shall be rounded off to the nearest integer, subject to minimum allotment being equal to the minimum application size as determined and disclosed in the offer document:

**Provided that** the value of specified securities allotted to any person, except in case of employees, in pursuance of reservation made under clause (a) of sub-regulation (1) or clause (a) of sub-regulation (2) of regulation 33, shall not exceed two lakhs rupees for retail investors or up to five lakhs rupees for eligible employees.

- (4) The allotment of specified securities to each retail individual investor shall not be less than the minimum bid lot, subject to the availability of shares in retail individual investor category, and the remaining available shares, if any, shall be allotted on a proportionate basis.
- (5) The authorised employees of the designated stock exchange, along with the lead manager(s) and registrars to the issue, shall ensure that the basis of allotment is finalised in a fair and proper manner in accordance with the procedure as specified in **Part A of Schedule XIV.**

#### **Allotment, refund and payment of interest**

50. (1) The issuer and lead manager(s) shall ensure that the specified securities are allotted and/or application monies are refund and blocked within such period as may be specified by the Board.
- (2) The lead manager(s) shall ensure that the allotment, credit of dematerialised securities and refund or unblocking of application monies, as may be applicable, are done electronically.
- (3) Where the specified securities are not allotted and/or application monies are not refunded or unblocked within the period stipulated in sub-regulation (1) above, the issuer shall undertake to pay interest at the rate of fifteen per cent. per annum to the investors and within such time as disclosed in the offer document and the lead manager(s) shall ensure the same.

#### **Post-issue advertisements**

51. (1) The lead manager(s) shall ensure that an advertisement giving details relating to subscription, basis of allotment, number, value and percentage of all applications including ASBA, number, value and percentage of successful allottees for all

applications including ASBA, date of completion of dispatch of refund orders, as applicable, or instructions to self-certified syndicate banks by the registrar, date of credit of specified securities and date of filing of listing application, etc. is released within ten days from the date of completion of the various activities in at least one English national daily newspaper with wide circulation, one Hindi national daily newspaper with wide circulation and one regional language daily newspaper with wide circulation at the place where registered office of the issuer is situated.

- (2) Details specified in sub regulation (1) shall also be placed on the websites of the stock exchange(s).

#### **Post-issue responsibilities of the lead manager(s)**

52. (1) The responsibility of the lead manager(s) shall continue until completion of the issue process and for any issue related matter thereafter.
- (2) The lead manager(s) shall regularly monitor redressal of investor grievances arising from any issue related activities.
- (3) The lead manager(s) shall continue to be responsible for post-issue activities till the applicants have received the securities certificates, credit to their demat account or refund of application monies and the listing agreement is entered into by the issuer with the stock exchange and listing or trading permission is obtained.
- (4) The lead manager(s) shall be responsible for and co-ordinate with the registrars to the issue and with various intermediaries at regular intervals after the closure of the issue to monitor the flow of applications from syndicate member(s) or collecting bank branches and/ or self-certified syndicate banks, processing of the applications including application form for ASBA and other matters till the basis of allotment is finalised, credit of the specified securities to the demat accounts of the allottees and unblocking of ASBA accounts/ despatch of refund orders are completed and securities are listed, as applicable.
- (5) Any act of omission or commission on the part of any of the intermediaries noticed by the lead manager(s) shall be duly reported by them to the Board.
- (6) In case there is a devolvement on the underwriters, the lead manager(s) shall ensure that the notice for devolvement containing the obligation of the underwriters is issued within ten days from the date of closure of the issue.
- (7) In the case of undersubscribed issues that are underwritten, the lead manager(s) shall furnish information in respect of underwriters who have failed to meet their underwriting devolvement to the Board, in the format specified in **Schedule XVIII**

**Release of subscription money**

53. (1) The lead manager(s) shall confirm to the bankers to the issue by way of copies of listing and trading approvals that all formalities in connection with the issue have been completed and that the banker is free release the money to the issuer or release the money for refund in case of failure of the issue.
- (2) In case the issuer fails to obtain listing or trading permission from the stock exchanges where the specified securities were to be listed, it shall refund through verifiable means the entire monies received within seven days of receipt of intimation from stock exchanges rejecting the application for listing of specified securities, and if any such money is not repaid within eight days after the issuer becomes liable to repay it, the issuer and every director of the company who is an officer in default shall, on and from the expiry of the eighth day, be jointly and severally liable to repay that money with interest at the rate of fifteen per cent. per annum.
- (3) The lead manager(s) shall ensure that the monies received in respect of the issue are released to the issuer in compliance with the provisions of Section 40 (3) of the Companies Act, 2013, as applicable.

**Reporting of transactions of the promoters and promoter group**

54. The issuer shall ensure that all transactions in securities by the promoter and promoter group between the date of filing of the draft offer document or offer document, as the case may be, and the date of closure of the issue shall be reported to the stock exchange(s), within twenty four hours of such transactions.

**Post-issue reports**

55. The lead manager(s) shall submit a final post-issue report as specified in **Part A of Schedule XVII**, along with a due diligence certificate as per the format specified in **Form F of Schedule V**, within seven days of the date of finalization of basis of allotment or within seven days of refund of money in case of failure off issue.

**PART IX: MISCELLANEOUS****Restriction on further capital issues**

56. An issuer shall not make any further issue of specified securities in any manner whether by way of public issue, rights issue, preferential issue, qualified institutions placement, issue of bonus shares or otherwise, except pursuant to an employee stock option scheme, during the period between the Date of filing the draft offer document and the listing of the specified securities offered through the offer document or refund of application monies, unless full disclosures regarding the total number of specified securities or amount proposed to be raised from such further issue are made in such draft offer document or offer document, as the case maybe.

**Price stabilisation through green shoe option**

57. (1) An issuer may provide a green shoe option for stabilising the post listing price of its specified securities, subject to the following:
- a) the issuer has been authorized, by a resolution passed in the general meeting of shareholders approving the public issue, to allot specified securities to the stabilizing agent, if required, on the expiry of the stabilization period;
  - b) the issuer has appointed a lead manager as a stabilising agent, who shall be responsible for the price stabilization process;
  - c) prior to filing the draft offer document, the issuer and the stabilizing agent have entered into an agreement, stating all the terms and conditions relating to the green shoe option including fees charged and expenses to be incurred by the stabilizing agent for discharging its responsibilities;
  - d) prior to filing the offer document, the stabilising agent has entered into an agreement with the promoters or pre-issue shareholders or both for borrowing specified securities from them in accordance with clause (g) of this sub-regulation, specifying therein the maximum number of specified securities that may be borrowed for the purpose of allotment or allocation of specified securities in excess of the issue size (herein after referred to as the “over-allotment”), which shall not be in excess of fifteen percent of the issue size;
  - e) subject to clause (d), the lead manager, in consultation with the stabilising agent, shall determine the amount of specified securities to be over-allotted in the public issue;
  - f) the draft offer document and offer document shall contain all material disclosures about the green shoe option specified in this regard in Part A of **Schedule VI**;
  - g) in case of an initial public offer pre-issue shareholders and promoters and in case of a further public offer pre-issue, shareholders holding more than five per cent. specified securities and promoters, may lend specified securities to the extent of the proposed over-allotment;
  - h) the specified securities borrowed shall be in dematerialized form and allocation of these securities shall be made pro-rata to all successful applicants.
- (2) For the purpose of stabilization of post-listing price of the specified securities, the stabilising agent shall determine the relevant aspects including the timing of buying such securities, quantity to be bought and the price at which such securities are to be bought from the market.
- (3) The stabilisation process shall be available for a period not exceeding thirty days from the date on which trading permission is given by the stock exchanges in respect of the specified securities allotted in the public issue.

- (4) The stabilizing agent shall open a special account, distinct from the issue account, with a bank for crediting the monies received from the applicants against the over-allotment and a special account with a depository participant for crediting specified securities to be bought from the market during the stabilization period out of the monies credited in the special bank account.
- (5) The specified securities bought from the market and credited in the special account with the depository participant shall be returned to the promoters or pre-issue shareholders immediately, in any case not later than two working days after the end of the stabilization period.
- (6) On expiry of the stabilisation period, if the stabilising agent has not been able to buy specified securities from the market to the extent of such securities over-allotted, the issuer shall allot specified securities at issue price in dematerialized form to the extent of the shortfall to the special account with the depository participant, within five days of the closure of the stabilization period and such specified securities shall be returned to the promoters or pre-issue shareholders by the stabilizing agent in lieu of the specified securities borrowed from them and the account with the depository participant shall be closed thereafter.
- (7) The issuer shall make a listing application in respect of the further specified securities allotted under sub-regulation (6), to all the stock exchanges where the specified securities allotted in the public issue are listed and the provisions of Chapter VII shall not be applicable to such allotment.
- (8) The stabilizing agent shall remit the monies with respect to the specified securities allotted under sub-regulation (6) to the issuer from the special bank account.
- (9) Any monies left in the special bank account after remittance of monies to the issuer under sub-regulation (8) and deduction of expenses incurred by the stabilising agent for the stabilization process shall be transferred to the Investor Protection and Education Fund established by the Board and the special bank account shall be closed soon thereafter.
- (10) The stabilizing agent shall submit a report to the stock exchange on a daily basis during the stabilization period and a final report to the Board in the format specified in Schedule XV.
- (11) The stabilizing agent shall maintain a register for a period of at least three years from the date of the end of the stabilization period and such register shall contain the following particulars:
  - a) The names of the promoters or pre-issue shareholders from whom the specified securities were borrowed, and the number of specified securities borrowed from each of them;
  - b) The price, date and time in respect of each transaction effected in the course of the stabilisation process and
  - c) The details of allotment made by the issuer on expiry of the stabilization process.

### Alteration of rights of holders of specified securities

58. The issuer shall not alter the terms including the terms of issue of specified securities which may adversely affect the interests of the holders of that specified securities, except with the consent in writing of the holders of not less than three-fourths of the specified securities of that class or with the sanction of a special resolution passed at a meeting of the holders of the specified securities of that class.

### Post-listing exit opportunity for dissenting shareholders

59. The promoters, or shareholders in control of an issuer, shall provide an exit offer to dissenting shareholders as provided for in the Companies Act, 2013, in case of change in objects or variation in the terms of contract related to objects referred to in the offer document as per conditions and manner is provided in **Schedule XX**

**Provided that** the exit offer shall not apply where there are neither any identifiable promoters nor any shareholders in control of the issuer.

## CHAPTER III

### RIGHTS ISSUE

#### PART I: ELIGIBILITY REQUIREMENTS

##### Reference date

60. Unless otherwise provided in this Chapter, an issuer offering specified securities of aggregate value of fifty crore rupees or more, through a rights issue shall satisfy the conditions of this Chapter at the time of filing the draft letter of offer with the Board and also at the time of filing the final letter of offer with the stock exchanges, as the case maybe.

##### Entities not eligible to make a rights issue

61. An issuer shall not be eligible to make a rights issue of specified securities:
- if the issuer, any of its promoters, promoter group or directors of the issuer are debarred from accessing the capital market by the Board;
  - if any of the promoters or directors of the issuer is a promoter or director of any other company which is debarred from accessing the capital market by the Board.
  - if any of its promoters or directors is a fugitive economic offender.

**Explanation:** The restrictions under (a) and (b) above will not apply to the persons or entities mentioned therein who were debarred in the past by the Board and the period of debarment is already over as on the date of filing of the draft letter of offer with the Board.

### General conditions

62. (1) The issuer making a rights issue of specified securities shall ensure that:
- a) it has made an application to one or more stock exchanges to seek an in-principle approval for listing of its specified securities on such stock exchanges and has chosen one of them as the designated stock exchange, in terms of **Schedule XIX**.
  - b) all its existing partly paid-up equity shares have either been fully paid-up or have been forfeited;
  - c) it has made firm arrangements of finance through verifiable means towards seventy-five per cent. of the stated means of finance for the specific project proposed to be funded from issue proceeds, excluding the amount to be raised through the proposed rights issue or through existing identifiable internal accruals.
- Explanation** - For the purpose of this regulation 'finance for the specific project' shall mean finance of capital expenditures only.
- (2) The amount for general corporate purposes, as mentioned in objects of the issue in the draft letter of offer and the letter of offer, shall not exceed twenty-five per cent. of the amount raised by the issuer.
  - (3) Where the issuer or any of its promoters or directors is a willful defaulter, the promoters or promoter group of the issuer shall not renounce their rights except to the extent of renunciation within the promoter group.
  - (4) Where the issuer has issued SR equity shares to its promoters or founders, then such a SR shareholder shall not renounce their rights and the SR shares received in a rights issue shall remain under lock-in until conversion into equity shares having voting rights same as that of ordinary equity shares along with existing SR equity shares.]



## PART II: ISSUE OF CONVERTIBLE DEBT INSTRUMENTS AND WARRANTS

### Additional requirements for issue of convertible debt instruments

63. (1) In addition to other requirements laid down in these regulations, an issuer making a rights issue of convertible debt instruments shall also comply with the following conditions:
- a) it has obtained credit rating from at least one credit rating agency;
  - b) it has appointed at least one debenture trustee in accordance with the provisions of the Companies Act, 2013 and the Securities and Exchange Board of India (Debenture Trustees) Regulations, 1993;

- c) it shall create a debenture redemption reserve in accordance with the provisions of the Companies Act, 2013 and rules made there under;
- d) if the issuer proposes to create a charge or security on its assets in respect of secured convertible debt instruments, it shall ensure that:
  - i. such assets are sufficient to discharge the principal amount at all times;
  - ii. such assets are free from any encumbrance;
  - iii. where security is already created on such assets in favour of any existing lender or security trustee or the issue of convertible debt instruments is proposed to be secured by creation of security on a leasehold land, the consent of such lender or security trustee or lessor for a second or paripassu charge has been obtained and submitted to the debenture trustee before the opening of the issue;
  - iv. the security or asset cover shall be arrived at after reduction of the liabilities having a first or prior charge, in case the convertible debt instruments are secured by a second or subsequent charge.

(2) The issuer shall redeem the convertible debt instruments in terms of the letter of offer.

#### **Roll over of non-convertible portion of partly convertible debt instruments**

- 64.** (1) The non-convertible portion of partly convertible debt instruments issued by a listed issuer, the value of which exceeds ten crore rupees, may be rolled over, subject to compliance with the provisions of the Companies Act, 2013 and the following conditions:
- a) seventy-five per cent. of the holders (in value) of the convertible debt instruments of the issuer have, through a resolution, approved the rollover through postal ballot;
  - b) the issuer has, along with the notice for passing the resolution, sent to all holders of the convertible debt instruments, an auditors' certificate on the cash flow of the issuer and with comments on the liquidity position of the issuer;
  - c) the issuer has undertaken to redeem the non-convertible portion of the partly convertible debt instruments of all the holders of the convertible debt instruments who have not agreed to the resolution;
  - d) credit rating has been obtained from at least one credit rating agency registered with the Board within a period of one month prior to the due date of redemption and has been communicated to the holders of the convertible debt instruments, before the rollover;
- (2) The creation of fresh security and execution of fresh trust deed shall not be mandatory if the existing trust deed or the security documents provide for continuance of the security till redemption of secured convertible debt instruments:

**Provided that** whether the issuer is required to create fresh security and to execute fresh trust deed or not shall be decided by the debenture trustee.

### **Conversion of optionally convertible debt instruments into equity shares**

65. (1) An issuer shall not convert its optionally convertible debt instruments into equity shares unless the holders of such convertible debt instruments have sent their positive consent to the issuer and non-receipt of reply to any notice sent by the issuer for this purpose shall not be construed as consent for conversion of any convertible debt instruments.

(2) Where the value of the convertible portion of any listed convertible debt instruments issued by an issuer exceeds ten crores and the issuer has not determined the conversion price of such convertible debt instruments at the time of making the issue, the holders of such convertible debt instruments shall be given the option of not converting the convertible portion into equity shares:

**Provided that** where the upper limit on the price of such convertible debt instruments and justification thereon is determined and disclosed to the investors at the time of making the issue, it shall not be necessary to give such option to the holders of the convertible debt instruments for converting the convertible portion into equity share capital within the said upper limit

(3) Where an option is to be given to the holders of the convertible debt instruments in terms of sub-regulation (2) and if one or more of such holders do not exercise the option to convert the instruments into equity share capital at a price determined in the general meeting of the shareholders, the issuer shall redeem that part of the instruments within one month from the last date by which option is to be exercised, at a price which shall not be less than its face value.

**Provided that** the provisions of sub-regulation (3) shall not apply if such redemption is in terms of the disclosures made in the offer document.

### **Issue of convertible debt instruments for financing**

66. An issuer shall not issue convertible debt instruments for financing or for providing loans to or for acquiring shares of any person who is part of the promoter group or group companies:

**Provided that** an issuer shall be eligible to issue fully convertible debt instruments for these purposes if the period of conversion of such debt instruments is less than eighteen months from the date of issue of such debt instruments.

### **Issue of warrants**

67. An issuer shall be eligible to issue warrants subject to the following:

a) the tenure of such warrants shall not exceed eighteen months from their date of allotment in the right issue;

- b) a specified security may have one or more warrants attached to it;
- c) the price or formula for determination of exercise price of the warrants shall be determined upfront and disclosed in the letter of offer and at least twenty-five per cent. of the consideration amount based on the exercise price shall also be received upfront;

**Provided that** in case the exercise price of warrants is based on a formula, twenty-five per cent. Consideration amount calculated as per the formula with reference date being the record date shall be received upfront.

- d) in case the warrant holder does not exercise the option to take equity shares against any of the warrants held by the warrant holder, within three months from the date of payment of consideration, such consideration made in respect of such warrants shall be forfeited by the issuer.



### PART III: RECORD DATE

68. (1) The issuer shall announce a record date for the purpose of determining the shareholders eligible to apply for specified securities in the proposed rights issue for such period as may be specified in the Securities and Exchange Board of India (Listing Obligations and Disclosure Requirements) Regulations, 2015.
- (2) The issuer shall not withdraw its rights issue after announcement of the record date. However, if the issuer withdraws the rights issue after announcing the record date, it shall not be eligible to make an application for listing of any of its specified securities on any stock exchange for a period of twelve months from the record date announced under sub-regulation (1):

**Provided that** the issuer may seek listing of its equity shares allotted pursuant to conversion or exchange of convertible securities, ESOPs or exercise of warrants issued prior to the announcement of the record date, on the stock exchange where its securities are listed.



### PART IV – APPOINTMENT OF LEAD MANAGERS, AND OTHER INTERMEDIARIES

69. (1) The issuer shall appoint one or more merchant bankers, which are registered with the Board, as lead manager(s) to the issue.
- (2) Where the issue is managed by more than one lead manager, the rights, obligations and responsibilities, relating *inter alia* to disclosures, allotment, refund and underwriting obligations, if any, of each lead manager shall be predetermined and be disclosed in the draft letter offer and the letter of offer as specified in **Schedule I**:
- (3) At least one lead manager to the issue shall not be an associate (as defined under the Securities and Exchange Board of India (Merchant Bankers) Regulations, 1992) of the

issuer and if any of the lead manager is an associate of the issuer, it shall disclose itself as an associate of the issuer and its role shall be limited to marketing of the issue.

- (4) The issuer shall, in consultation with the lead manager(s), appoint other intermediaries which are registered with the Board after the lead manager(s) have independently assessed the capability of other intermediaries to carry out their obligations.
- (5) The issuer shall enter into an agreement with the lead manager(s) in the format specified in **Schedule II** and also enter into agreements with other intermediaries as required under the respective regulations applicable to the intermediary concerned:

**Provided that** such agreements may include such other clauses as the issuer and the intermediaries may deem fit without diminishing or limiting in any way the liabilities and obligations of the lead manager(s), other intermediaries and the issuer under the Act, the Companies Act, 2013 or the Companies Act, 1956 (to the extent applicable), the Securities Contracts (Regulation) Act, 1956, the Depositories Act, 1996 and the rules and regulations made thereunder or any statutory modification or statutory enactment thereof:

**Provided further** that in case of ASBA process, the issuer shall take cognisance of the deemed agreement of the issuer with the self-certified syndicate banks.

- (6) The issuer shall appoint bankers to an issue, at centers as specified in **Schedule XII**.
- (7) The issuer shall appoint a registrar to the issue registered with the Board, which has connectivity with all the depositories:

**Provided that** if the issuer itself is a registrar, it shall not appoint itself as a registrar to the issue;

**Provided further** that a lead manager shall not act as a registrar to the issue in which it is also handling the post-issue responsibilities.



## PART V: DISCLOSURES IN AND FILING OF LETTERS OF OFFER

### Disclosures in the draft letter of offer and letter of offer

70. (1) The draft letter of offer and letter of offer shall contain all material disclosures which are true and adequate to enable the applicants to take an informed investment decision.
- (2) Without prejudice to the generality of sub-regulation (1), the draft letter of offer and letter of offer shall contain disclosures as specified in **Part B or Part B1 of Schedule VI, as applicable**.
- (3) The lead manager(s) shall exercise due diligence and satisfy themselves about all aspects of the issue including the veracity and adequacy of disclosure in the draft letter of offer and the letter of offer.

- (4) The lead manager(s) shall call upon the issuer, its promoters and its directors to fulfill their obligations as disclosed by them in the draft letter of offer and letter of offer and as required in terms of these Regulations.
- (5) The lead manager(s) shall ensure that the information contained in the draft letter of offer and letter of offer and the particulars as per audited financial statements in the letter of offer are not more than six months old from the issue opening date.
- (6) An issuer shall make disclosures in the draft letter of offer, letter of offer and abridged letter of offer, if the issuer or any of its promoters or directors is a willful defaulter.
- [(7) In the letter of offer and the abridged letter of offer, the issuer shall disclose the process of credit of rights entitlements in the demat account and renunciation thereof.]

#### **Filing of the draft letter of offer and letter of offer**

- 71.** (1) Prior to making a rights issue, the issuer shall, except in case of a fast track issue, file a draft letter of offer, with the concerned regional office of the Board under the jurisdiction of which the registered office of the issuer company is located, in accordance with **Schedule IV**, along with fees as specified in **Schedule III**, with the Board and with the stock exchange(s), through the lead manager(s).
- Provided that** the issuer shall, in case of fast track issue, file a letter of offer and pay fees as specified in Schedule III with the Board.
- (2) The lead manager(s) shall submit the following to the Board along with the draft letter of offer:
    - a) a certificate, confirming that an agreement has been entered into between the issuer and the lead manager(s) and includes content specified in **Schedule II**;
    - b) a due diligence certificate as per **Form A of Schedule V**;
    - c) in case of an issue of convertible debt instruments, a due diligence certificate from the debenture trustee as per **Form B of Schedule V**;
    - d) A certificate confirming compliance of the conditions specified in **Part F of Schedule VI**, if applicable.
  - (3) The issuer shall also file the draft letter of offer with the stock exchange(s) and shall submit to such stock exchange(s), the Permanent Account Number, bank account number and passport number of its promoters where they are individuals, and Permanent Account Number, bank account number, company registration number or equivalent and the address of the Registrar of Companies with which the promoter is registered, where the promoter is a body corporate.
  - (4) The Board may specify changes or issue observations, if any, on the draft letter of offer within thirty days from the later of the following dates:

- a) the date of receipt of the draft letter of offer, as applicable, under sub-regulation (1); or
  - b) the date of receipt of satisfactory reply from the lead manager(s), where the Board has sought any clarification or additional information from them; or
  - c) the date of receipt of clarification or information from any regulator or agency, where the Board has sought any clarification or information from such regulator or agency; or
  - d) the date of receipt of a copy of in-principle approval letter issued by the stock exchanges.
- (5) If the Board specifies any changes or issues observations on the draft letter of offer the issuer and lead manager(s) shall carry out such changes in the draft letter of offer and shall submit to the Board an updated draft letter of offer complying with the observations issued by the Board and highlighting all changes made in the draft letter of offer before filing the letter of offer with the stock exchanges.
- (6) If there are any changes in the draft letter of offer in relation to the matters specified in **Schedule XVI**, an updated letter of offer or a fresh draft letter of offer, as the case may be, shall be filed with the Board along with fees specified in **Schedule III**.
- (7) The lead manager(s) shall submit the following documents to the Board after issuance of observations by the Board or after expiry of the period stipulated in sub-regulation (4) of regulation 71 if the Board has not issued observations:
- a) a statement certifying that all changes, suggestions and observations made by the Board have been incorporated in the letter of offer;
  - b) a due diligence certificate as per **Form C of Schedule V**, at the time of submission of the letter of offer with stock exchange(s);
  - c) a due diligence certificate as per **Form D of Schedule V**, in the event the issuer has made a disclosure of any material development by issuing a public notice.
- (8) Copy of the letter of offer shall also be filed with the Board and the stock exchanges through the lead manager simultaneously with filing of the letter of offer with the designated stock exchange.
- (9) The draft letter of offer and letter of offer shall also be furnished to the Board in a softcopy.

#### **Draft letter of offer and letter of offer to be available to the public**

72. (1) The draft letter of offer filed with the Board shall be made public for comments, if any, for a period of at least twenty one days from the date of filing, by hosting it on the

websites of the Board, stock exchanges where specified securities are proposed to be listed and the lead manager(s) associated with the issue.

- (2) The issuer shall, within two days of filing of the draft letter of offer with the Board, make a public announcement in one English national daily newspaper with wide circulation, one Hindi national daily newspaper with wide circulation and one regional language newspaper with wide circulation at the place where the registered office of the issuer is situated, disclosing to the public the fact of filing of the draft letter of offer with the Board and inviting the public to provide their comments to the Board, the issuer or to the lead manager(s) in respect of the disclosures made in the draft letter of offer.
- (3) The lead manager(s) shall, after expiry of the period stipulated in sub-regulation (1), file with the Board, details of the comments received by them or the issuer from the public, on the draft offer document, during that period and the consequential changes, if any, that are required to be made in the draft offer document.
- (4) The issuer and the lead manager(s) shall ensure that the letters of offer are hosted on the websites as required under these regulations and its contents are the same as the versions as filed with the Board and the stock exchanges, as applicable.
- (5) The lead manager(s) and the stock exchanges shall provide copies of the draft letter of offer to the public as and when requested and may charge a reasonable sum for providing a copy of the same.



## PART VI: PRICING

73. (1) The issuer shall decide the issue price, in consultation with the lead manager(s), before determining the record date, which shall be determined in consultation with the designated stock exchange.
- (2) The issue price shall not be less than the face value of the specified securities.
  - (3) The issuer shall disclose the issue price in the letter of offer filed with the Board and the stock exchange(s).



## PART VII: ISSUANCE CONDITIONS AND PROCEDURE

### Reservations

74. (1) The issuer shall make a rights issue of equity shares only if it has made reservation of equity shares of the same class in favour of the holders of outstanding compulsorily convertible debt instruments, if any, in proportion to the convertible part thereof.
- (2) The equity shares so reserved for the holders of fully or partly compulsorily convertible debt instruments shall be issued to the holder of such convertible debt

instruments or warrants at the time of conversion of such convertible debt instruments, on the same terms at which the equity shares offered in the rights issue were issued.

**Provided that** for the purposes of offering such rights entitlements, the issuer company shall not be required to credit rights entitlements.

- (3) Subject to other applicable provision of these regulations, the issuer may make reservation for its employees along with rights issue subject to the condition that the value of allotment to any employee shall not exceed two lakhs rupees.

**Provided that** in the event of under-subscription in the employee reservation portion, the unsubscribed portion may be allotted on a proportionate basis, for a value in excess of two lakhs rupees, subject to the total allotment to an employee not exceeding five lakhs rupees.

#### **Abridged letter of offer**

75. (1) The abridged letter of offer shall contain the disclosures as specified by the Board in **Part F of Schedule VI** and shall not contain any matter extraneous to the contents of the letter of offer.
- (2) Every application form distributed by the issuer or any other person in relation to the issue shall be accompanied by a copy of the abridged letter of offer.

#### **ASBA.**

76. An applicant to the rights issue shall do so only through the ASBA facility, which facility shall be provided by the issuer in the manner specified by the Board:

**Provided that** payment through any other electronic banking mode shall be permitted in respect of an application made for any reserved portion outside the issue period.]

#### **Availability of letter of offer and other issue materials**

77. (1) The lead manager(s) shall ensure availability of the letter of offer and other issue material including application forms with stock exchanges, registrar to issue, registrar and share transfer agents, depository participants, stock brokers, underwriters, bankers to the issue, investors' associations and self-certified syndicate banks before the opening of the issue.
- (2) The abridged letter of offer, along with application form, shall be dispatched through registered post or speed post or by courier service or by electronic transmission to all the existing shareholders at least three days before the date of opening of the issue.
- (3) The letter of offer shall also be provided by the issuer or lead manager(s) to any existing shareholder who makes a request in this regard.

**Credit of rights entitlements and allotment of specified securities.**

- 77A. (1) The rights entitlements shall be credited to the demat account of the shareholders before the date of opening of the issue.
- (2) Allotment of specified securities shall be made in the dematerialised form only.]

**Conditions for making applications on plain paper**

78. (1) Shareholders who have not received the application form may make an application in writing on a plain paper, along with the requisite application money.
- Provided that** SCSBs shall accept such application forms only if all details required for making the application as per these regulations are specified in the plain paper application.
- (2) Shareholders making an application on plain paper shall not be entitled to renounce their rights and shall not utilise the application form for any purpose including renunciation even if it is received subsequently.
- (3) If a shareholder makes an application both in an application form as well as on a plain paper, both applications are liable to be rejected.

**Prohibition on payment of incentives**

79. Any person connected with the issue, shall not offer any incentive, whether direct or indirect, in any manner, whether in cash or kind or services or otherwise to any person for making an application in the rights issue, except for fees or commission for services rendered in relation to the issue.

**Security deposit**

80. (1) The issuer shall, before the opening of the subscription list, deposit with the designated stock exchange, an amount calculated at the rate of one per cent. of the issue size in the manner specified by the Board and/or stock exchange(s).
- (2) The amount specified in sub-regulation (1) shall be refundable or forfeitable in the manner specified by the Board.

**Underwriting**

81. (1) If the issuer desires to have the issue underwritten, it shall appoint underwriters in accordance with the Securities and Exchange Board of India (Underwriters) Regulations, 1993.
- Provided that** the issue can be underwritten only to the extent of entitlement of shareholders other than the promoters and promoter group.
- (2) In case of every underwritten issue, the lead manager(s) shall undertake minimum underwriting obligations as specified in the Securities and Exchange Board of India (Merchant Bankers) Regulations, 1992.

**Monitoring agency**

82. (1) If the issue size exceeds one hundred crore rupees, the issuer shall make arrangements for the use of proceeds of the issue to be monitored by a public financial institution or by a scheduled commercial bank named in the letter of offer as a banker of the issuer:

**Provided that** nothing contained in this clause shall apply to an issue of specified securities made by a bank or public financial institution or an insurance company.

- (2) The monitoring agency shall submit its report to the issuer in the format specified in **Schedule XI** on a quarterly basis, till at least ninety-five per cent. of the proceeds of the issue actually raised, excluding the proceeds raised for general corporate purposes, have been utilised.
- (3) The board of directors and the management of the issuer shall provide their comments on the findings of the monitoring agency as specified in **Schedule XI**.
- (4) The issuer shall, within forty five days from the end of each quarter, publicly disseminate the report of the monitoring agency by uploading the same on its website as well as submitting the same to the stock exchange(s) on which its equity shares are listed.

**Public communications, publicity materials, advertisements and research reports.**

83. All public communication, publicity materials, advertisements and research reports shall comply with the provisions of **Schedule IX**

**Issue-related advertisements**

84. (1) The issuer shall issue an advertisement in at least one English national daily newspaper with wide circulation, one Hindi national daily newspaper with wide circulation and one regional language daily newspaper with wide circulation, at the place where registered office of the issuer is situated, [and also give an intimation to the stock exchanges for dissemination on their websites], at least [two] days before the date of opening of the issue, disclosing the following:
- a) the date of completion of despatch of abridged letter of offer and the application form;
  - b) the centres other than registered office of the issuer where the shareholders or the persons entitled to receive the rights entitlements may obtain duplicate copies of the application form in case they do not receive the application form within a reasonable time after opening of the rights issue;
  - c) the application as per these regulations are specified in the plain paper application neither received the original application forms nor are in a position to obtain the form; they may make an application through the form available on

the website of Registrar, stock exchanges or lead managers or in writing on a plain paper to subscribe to the Rights Issue along with a format specifying therein the necessary particulars such as name, address, ratio of rights issue, issue price, number of equity shares held, ledger folio numbers, depository participant ID, client ID, number of equity shares entitled and applied for, additional shares if any, and the amount to be blocked with SCSB along with the application

- d) a statement to the effect that if the shareholder makes an application using the application form as well as plain paper, both the applications shall be liable to be rejected at the option of the issuer.
- (2) During the period the issue is open for subscription, no advertisement shall be released giving an impression that the issue has been fully subscribed or oversubscribed, or indicating investors' response to the issue.
- (3) An announcement regarding closure of issue shall be made only after the lead manager(s) is satisfied that at least ninety per cent. of the offer through letter of offer has been subscribed and a certificate has been obtained to that effect from the registrar to the issue:

**Provided that** such an announcement shall not be made before the date on which the issue is to be closed except for issue closing advertisement made in the format prescribed in these regulations.

### Opening of the issue

85. Subject to the compliance with the provisions of the Companies Act, 2013, a rights issue may be opened within twelve months from the date of issuance of the observations by the Board under regulation 71.

**Provided that** in case of a fast track issue, the issue shall open within twelve months from the record date.

### Minimum subscription

86. (1) The minimum subscription to be received in the issue shall be at least ninety per cent. of the offer through the offer document.

**Provided that** minimum subscription criteria shall not be applicable to an issuer if:

- (a) the object of the issue involves financing other than financing of capital expenditure for a project; and
- (b) the promoters and the promoter group of the issuer undertake to subscribe fully to their portion of rights entitlement and do not renounce their rights except to the extent of renunciation within the promoter group.

- (2) In the event of non-receipt of minimum subscription referred to in sub-regulation (1), all application monies received shall be refunded to the applicants forthwith, but not later than fifteen days from the closure of the issue.

### Period of subscription

87. The rights issue shall be kept open for subscription for a minimum period of fifteen days and for a maximum period of thirty days [and no withdrawal of application shall be permitted after the issue closing date].

### Payment options

88. The issuer shall give one of the following payment options to all the shareholders for each type of instrument:
- a) part payment on application with balance money to be paid in calls; or
  - b) full payment on application:

**Provided that** the part payment, if any, on application shall not be less than twenty-five per cent of the issue price and such issuer shall obtain the necessary regulatory approvals to facilitate the same:

[Provided further that payment of balance money in calls, outside the issue period, may be through electronic banking modes.]

### Manner of calls

89. If the issuer proposes to receive subscription monies in calls, it shall ensure that the outstanding subscription money is called within twelve months from the date of allotment in the issue and if any applicant fails to pay the call money within the said twelve months, the equity shares on which there are calls in arrear along with the subscription money already paid on such shares shall be forfeited:

**Provided further** that it shall not be necessary to call the outstanding subscription money within twelve months, if the issuer has appointed a monitoring agency in terms of regulation 82.

### Allotment procedure and basis of allotment

90. (1) The issuer shall not make any allotment in excess of the specified securities offered through the letter of offer except as provided in regulation 74(1) and (2).
- (2) Allotment shall be made in the following manner:
- a) Full allotment to those eligible shareholders who have applied for their rights entitlement either in full or in part and also to the renouncee(s), who has/have applied for the specified securities renounced in their favour, in full or in part, as adjusted for fractional entitlement.

- b) Allotment to eligible shareholders who having applied for the specified securities in full to the extent of their rights entitlement and have also applied for additional specified securities, shall be made as far as possible on an equitable basis having due regard to the number of specified securities held by them on the record date, provided there is an under- subscribed portion after making allotment in (a) above.
  - c) Allotment to the renounees, who having applied for the specified securities renounced in their favour and also applied for additional specified securities, provided there is an under- subscribed portion after making full allotment specified in (a) and (b) above. The allotment of such additional specified securities may be made on a proportionate basis.
- (3) The authorised employees of the designated stock exchange along with the lead manager(s) and registrars to the issue shall ensure that the basis of allotment is finalised in a fair and proper manner as may be prescribed by the Board

#### **Allotment, refund and payment of interest**

91. (1) The issuer and lead manager(s) shall ensure that the specified securities are allotted and/or application monies are refunded or unblocked within such period as may be specified by the Board.
- (2) The lead manager(s) shall ensure that the allotment, credit of dematerialised securities, refunding or unblocking of application monies, as may be applicable, are done electronically.
- (3) Where the specified securities are not allotted and/or application monies are not refunded or unblocked within the period stipulated in sub-regulation (1) above, the issuer shall undertake to pay interest at the rate of fifteen per cent. per annum to the shareholders within such time as disclosed in the draft letter of offer and the letter of offer and the lead manager(s) shall ensure the same.

#### **Post-issue advertisements**

92. (1) The lead manager(s) shall ensure that an advertisement giving details relating to subscription, basis of allotment, number, value and percentage of all applications including ASBA, number, value and percentage of successful allottees for all applications including ASBA, date of completion of dispatch of refund orders, as applicable, or instructions to self-certified syndicate banks by the Registrar, date of despatch of certificates or date of credit of specified securities, as applicable, and date of filing of listing application, etc. is released within ten days from the date of completion of the various activities in at least one English national daily newspaper with wide circulation, one Hindi national daily newspaper with wide circulation and one regional language daily newspaper with wide circulation at the place where registered office of the issuer is situated.

- (2) Details specified in sub regulation (1) shall also be placed on the websites of the stock exchanges where the securities are listed.

#### **Post-issue responsibilities of the lead manager(s)**

- 93.** (1) The responsibility of the lead manager(s) shall continue until completion of the issue process and for any issue related matter thereafter.
- (2) The lead manager(s) shall regularly monitor redressal of investor grievances arising from any issue related activities.
  - (3) The lead manager(s) shall continue to be responsible for post-issue activities till the applicants have received the securities certificates, credit to their demat account or refund of application monies and the listing agreement is entered into by the issuer with the stock exchange and listing or trading permission is obtained.
  - (4) The lead manager(s) shall be responsible for and co-ordinate with the registrars to the issue and with various intermediaries at regular intervals after the closure of the issue to monitor the flow of applications from self-certified syndicate banks, processing of the applications including application form for ASBA and other matters till the basis of allotment is finalised, credit of the specified securities to the dematerialised accounts of the allottees, as applicable and unblocking of ASBA accounts/ despatch of refund orders are completed and securities are listed, as applicable.
  - (5) Any act of omission or commission on the part of any of the intermediaries noticed by the lead manager(s) shall be duly reported by them to the Board
  - (6) In case there is a devolvement on underwriters, the lead manager(s) shall ensure that the notice for devolvement containing the obligation of the underwriters is issued within ten days from the date of closure of the issue.
  - (7) In case of undersubscribed issues that are underwritten, the lead manager(s) shall furnish information to the Board in respect of underwriters who have failed to meet their underwriting devolvement in the format specified in **Schedule XVIII**

#### **Release of subscription money**

- 94.** (1) The lead manager(s) shall confirm to the bankers to the issue by way of copies of listing and trading approvals that all formalities in connection with the issue have been completed and that the banker is free to release the money to the issuer or release the money for refund in case of failure of the issue.
- (2) In case the issuer fails to obtain listing or trading permission from the stock exchanges where the specified securities were listed, it shall refund through verifiable means the entire monies received within seven days of receipt of intimation from stock exchanges rejecting the application for listing of specified securities, and if any such money is not repaid within eight days after the issuer becomes liable to repay it the issuer and every

director of the company who is an officer in default shall, on and from the expiry of the eighth day, be jointly and severally liable to repay that money with interest at the rate of fifteen per cent per annum.

- (3) The lead manager(s) shall ensure that the monies received in respect of the rights issue are released to the issuer in compliance with the provisions of sub-section (3) of section 40 of the Companies Act, 2013, as applicable.

### **Reporting of transactions of the promoters and promoter group**

95. The issuer shall ensure that all transactions in securities by the promoters and promoter group between the date of filing of the draft letter of offer or letter of offer, as the case may be, and the date of closure of the issue shall be reported to the stock exchanges where the specified securities of the issuer are to be listed, within twenty four hours of such transactions.

### **Post-issue reports**

96. The lead manager(s) shall submit post-issue reports as follows:
  - a) initial post-issue report as specified in **Part B of Schedule XVII**, within three working days of closure of the issue;
  - b) final post-issue report as specified in **Part C of Schedule XVII**, within fifteen days of the date of finalization of basis of allotment or within fifteen days of refund of money in case of failure of the issue.



## **PART VIII: MISCELLENEOUS**

### **Restriction on further capital issues**

97. An issuer shall not make any further issue of specified securities in any manner whether by way of public issue, rights issue, preferential issue, qualified institutions placement, issue of bonus shares or otherwise, except pursuant to an employee stock options scheme:
  - a) in case of a fast track issue, during the period between the date of filing the letter of offer with the stock exchanges where the securities are proposed to be listed and the listing of the specified securities offered through the letter of offer or refund of application monies; or
  - b) in case of other issues, during the period between the date of filing the draft letter of offer with the Board and the listing of the specified securities offered through the letter of offer or refund of application monies; unless full disclosures regarding the total number of specified securities or amount proposed to be raised from such further issue are made in such draft letter of offer or letter of offer, as the case may be.

### Alteration of rights of holders of specified securities

98. The issuer shall not alter the terms (including the terms of issue) of specified securities which may adversely affect the interests of the holders of those specified securities, except with the consent in writing of the holders of not less than three-fourths of the specified securities of that class or with the sanction of a special resolution passed at a meeting of the holders of the specified securities of that class.



## PART IX: FAST TRACK RIGHTS ISSUE

### Eligibility conditions

99. Unless otherwise specified, nothing contained in sub-regulations (1), (2), (4) and (5) of regulation 71 shall apply if the issuer satisfies the following conditions for making a rights issue through the fast track route -

- a) the equity shares of the issuer have been listed on any stock exchange for a period of at least three years immediately preceding the reference date;
- b) the entire shareholding of the promoter group of the issuer is held in dematerialised form on the reference date;
- c) the average market capitalisation of public shareholding of the issuer is at least two hundred and fifty crore rupees;
- d) the annualised trading turnover of the equity shares of the issuer during six calendar months immediately preceding the month of the reference date has been at least two per cent. of the weighted average number of equity shares listed during such six months 'period:

**Provided that** for issuers, whose public shareholding is less than fifteen per cent of its issued equity capital, the annualised trading turnover of its equity shares has been at least two per cent. of the weighted average number of equity shares available as free float during such six months' period;

- e) the annualized delivery-based trading turnover of the equity shares during six calendar months immediately preceding the month of the reference date has been at least ten per cent. of the annualized trading turnover of equity shares during such six months 'period;
- f) the issuer has been in compliance with the equity listing agreement or the Securities and Exchange Board of India (Listing Obligations and Disclosure Requirements) Regulations, 2015, as applicable, for a period of at least three years immediately preceding the reference date:

**Provided that** if the issuer has not complied with the provisions of the listing agreement or the Securities and Exchange Board of India (Listing Obligations and

Disclosure Requirements) Regulations, 2015, as applicable, relating to composition of board of directors, for any quarter during the last three years immediately preceding the reference date, but is compliant with such provisions at the time of filing of letter of offer, and adequate disclosures are made in the letter of offer about such non-compliances during the three years immediately preceding the reference date, it shall be deemed as compliance with the condition;

**Provided further** that imposition of only monetary fines by stock exchanges on the issuer shall not be a ground for ineligibility for undertaking issuances under this regulation;

- g) the issuer has redressed at least ninety-five per cent. of the complaints received from the investors till the end of the quarter immediately preceding the month of the reference date;
- h) that no show-cause notices, excluding proceedings for imposition of penalty, have been issued by the Board and pending against the issuer or its promoters or whole-time directors as on the reference date;

In cases where against the issuer or its promoters or whole-time directors,

- i) show-cause notice(s) has been issued by the Board in a proceeding for imposition of penalty; or
- ii) prosecution proceedings have been initiated by the Board;

necessary disclosures in respect of such action(s) along-with its potential adverse impact on the issuer shall be made in the letter of offer.];

- i) the issuer or promoter or promoter group or director of the issuer has not settled any alleged violation of securities laws through the consent or settlement mechanism with the Board during three years immediately preceding the reference date;
- j) the equity shares of the issuer have not been suspended from trading as a disciplinary measure during last three years immediately preceding the reference date;
- k) there shall be no conflict of interest between the lead manager(s) and the issuer or its group companies in accordance with the applicable regulations.
- l) the promoters and promoter group shall mandatorily subscribe to their rights entitlement and shall not renounce their rights, except to the extent of renunciation within the promoter group or for the purpose of complying with minimum public shareholding norms prescribed under the Securities Contracts (Regulation) Rules, 1957;
- m) for audit qualifications, if any, in respect of any of the financial years for which accounts are disclosed in the letter of offer, the issuer shall provide the restated financial statements adjusting for the impact of the audit qualifications.

**Explanation:** For the purpose of this regulation:

- i. “average market capitalisation of public shareholding” means the sum of daily market capitalisation of public shareholding for a period of one year up to the end of the quarter preceding the month in which the proposed issue was approved by the shareholders or the board of the issuer, as the case may be, divided by the number of trading days.
- ii. “public shareholding” shall have the same meaning as assigned to it under the Securities Contracts (Regulation) Rules, 1957.
- iii. “reference date” means the date of filing the letter of offer with the designated stock exchange.
- iv. “audit qualifications” for this regulation shall be those disclosed under applicable accounting standard relating to modification to the opinion in the independent auditor’s report and requires a qualified opinion, adverse opinion or disclaimer of opinion for material misstatements.

### Issue conditions

- 100.** (1) The issuer shall file the letter of offer in accordance with sub-regulation 8 and 9 of regulation 71 and shall pay fees to the Board as specified in **Schedule III**
- (2) The lead manager(s) shall submit to the Board, the following documents along with the letter of offer:
- a) a due diligence certificate as per **Form A of Schedule V** including additional confirmations as specified in **Form E of Schedule V**
  - b) in case of a fast track issue of convertible debt instruments, a due diligence certificate from the debenture trustee as per **Form B of Schedule V**

## CHAPTER IV



### FURTHER PUBLIC OFFER

#### PART I: ELIGIBILITY REQUIREMENTS

##### Reference date

- 101.** Unless otherwise provided in this Chapter, an issuer making a further public offer of specified securities shall satisfy the conditions of this Chapter as on the date of filing of the draft offer document with the Board and also as on the date of [filing] the offer document with the Registrar of Companies.

**Entities not eligible to make a further public offer**

**102.** An issuer shall not be eligible to make a further public offer:

- a) if the issuer, any of its promoters, promoter group or directors, selling shareholders are debarred from accessing the capital market by the Board;
- b) if any of the promoters or directors of the issuer is a promoter or director of any other company which is debarred from accessing the capital market by the Board;
- c) if the issuer or any of its promoters or directors is a willful defaulter;
- d) if any of its promoters or directors is a fugitive economic offender.

**Explanation:** The restrictions under (a) and (b) above shall not apply to the persons or entities mentioned therein, who were debarred in the past by the Board and the period of debarment is already over as on the date of filing of the draft offer document with the Board.

**Eligibility requirements for further public offer**

- 103.** (1) An issuer may make a further public offer, if it has changed its name within the last one year, at least fifty per cent. of the revenue for the preceding one full year has been earned by it from the activity indicated by its newname.
- (2) An issuer not satisfying the condition stipulated in sub-regulation (1) may make a further public offer only if the issue is made through the book-building process and the issuer undertakes to allot at least seventy five per cent. of the net offer, to qualified institutional buyers and to refund full subscription money if it fails to make the said minimum allotment to qualified institutional buyers.

**General conditions**

- 104.** (1) An issuer making a further public offer shall ensure that-
- a) it has made an application to one or more stock exchanges to seek an in-principle approval for listing of its specified securities on such stock exchanges and has chosen one of them as the designated stock exchange, in terms of **Schedule XIX**;
  - b) it has entered into an agreement with a depository for dematerialisation of specified securities already issued and proposed to be issued;
  - c) all its existing partly paid-up equity shares have either been fully paid-up or have been forfeited;
  - d) it has made firm arrangements of finance through verifiable means towards seventy-five per cent. of the stated means of finance for the specific project proposed to be funded from the issue proceeds, excluding the amount to be raised through the proposed public issue or through existing identifiable internal accruals.

- (2) The amount for general corporate purposes, as mentioned in objects of the issue in the draft offer document and the offer document, shall not exceed twenty-five per cent. of the amount being raised by the issuer.

**Explanation:** For the purposes of this regulation, “project” means the object for which monies are proposed to be raised to cover the objects of the issue.

#### **Additional conditions for an offer for sale**

- 105.** Only such fully paid-up equity shares may be offered for sale to public which have been held by the selling shareholder(s) for a period of at least one year prior to the filing of the draft offer document:

**Provided further** that such holding period of one year shall be required to be complied with at the time of filing of the draft offer document.

**Provided that** in case the equity shares received on conversion or exchange of fully paid-up compulsorily convertible securities including depository receipts are being offered for sale, the holding period of such convertible securities, including depository receipts, as well as that of resultant equity shares together shall be considered for the purpose of calculation of one year period referred in this sub-regulation.

**Explanation:** If the equity shares arising out of the conversion or exchange of the fully paid-up compulsorily convertible securities are being offered for sale, the conversion or exchange should be completed prior to filing of the offer document (i.e. red herring prospectus in the case of a book built issue and prospectus in the case of a fixed price issue), provided full disclosures of the terms of conversion or exchange are made in the draft offer document.

**Provided further** that the requirement of holding the equity shares for a period of one year shall not apply:

- a) in case of an offer for sale of a government company or statutory authority or corporation or any special purpose vehicle set up and controlled by any one or more of them, which is engaged in the infrastructure sector;
- b) if the equity shares offered for sale were acquired pursuant to any scheme approved by a High Court under the sections 391 to 394 of the Companies Act, 1956, or approved by a tribunal or the Central Government under the sections 230 to 234 of the Companies Act, 2013, as applicable, in lieu of business and invested capital which had been in existence for a period of more than one year prior to approval of such scheme;
- c) if the equity shared offered for sale were issued under a bonus issue on securities held for a period of at least one year prior to the filing of the draft offer document with the Board and further subject to the following:
  - (i) such specified securities being issued out of free reserves and share premium existing in the books of account as at the end of the financial year preceding the financial year in which the draft offer document is filed with the Board; and

- (ii) such equity shares not being issued by utilisation of revaluation reserves or unrealized profits of the issuer.



## PART II: ISSUE OF CONVERTIBLE DEBT INSTRUMENTS AND WARRANTS

106. An issuer shall be eligible to make a further public offer of convertible debt instruments if its equity shares are already listed;

**Provided that** it is not in default in payment of interest or repayment of principal amount in respect of debt instruments issued by it to the public, if any, for a period of more than six months.

### Additional requirements for issue of convertible debt instruments

107. (1) In addition to other requirements laid down in these regulations, an issuer making a public issue of convertible debt instruments shall also comply with the following conditions:
- a) it has obtained credit rating for such convertible debt instrument from one or more credit rating agencies;
  - b) it has appointed at least one debenture trustee in accordance with the provisions of the Companies Act, 2013 and the Securities and Exchange Board of India (Debenture Trustees) Regulations, 1993;
  - c) it shall create a debenture redemption reserve in accordance with the provisions of the Companies Act, 2013 and rules made thereunder.
  - d) if the issuer proposes to create a charge or security on its assets in respect of secured convertible debt instruments, it shall ensure that:
    - i. such assets are sufficient to discharge the principal amount at all-time.
    - ii. such assets are free from any encumbrance.
    - iii. where security is already created on such assets in favour of public financial institutions or scheduled commercial banks or the issue of convertible debt instruments is proposed to be secured by creation of security on a leasehold land, the consent of such public financial institution, scheduled commercial bank or lessor for a second or paripassu charge has been obtained and submitted to the debenture trustee before the opening of the issue;
    - iv. the security or asset cover shall be arrived at after reduction of the liabilities having a first or prior charge, in case the convertible debt instruments are secured by a second or subsequent charge.

- (2) The issuer shall redeem the convertible debt instruments in terms of the offer document.

### **Roll over of non-convertible portion of partly convertible debt instruments**

**108.** The non-convertible portion of partly convertible debt instruments issued by a listed issuer, the value of which exceeds ten crore rupees, may be rolled over, subject to compliance with the provisions of the Companies Act, 2013 and the following conditions:

- a) seventy five per cent. of the holders (in value) of the convertible debt instruments of the issuer have, through a resolution, approved the rollover through postal ballot;
  - b) the issuer has, along with the notice for passing the resolution, sent to all holders of the convertible debt instruments, an auditors' certificate on the cash flow of the issuer and with comments on the liquidity position of the issuer;
  - c) the issuer has undertaken to redeem the non-convertible portion of the partly convertible debt instruments of all the holders of the convertible debt instruments who have not agreed to the resolution;
  - d) credit rating has been obtained from at least one credit rating agency registered with the Board within a period of one month prior to the due date of redemption and has been communicated to the holders of the convertible debt instruments, before the rollover.
- (2) The creation of fresh security and execution of fresh trust deed shall not be mandatory if the existing trust deed or the security documents provide for continuance of the security till redemption of secured convertible debt instruments:

**Provided that** the debenture trustee shall decide if the issuer is required to create fresh security and to execute fresh trust deed.

### **Conversion of optionally convertible debt instruments into equity share capital**

- 109.** (1) The issuer shall not convert its optionally convertible debt instruments into equity shares unless the holders of such convertible debt instruments have sent their positive consent to the issuer and non-receipt of reply to any notice sent by the issuer for this purpose shall not be construed as consent for conversion of any convertible debt instruments.
- (2) Where the value of the convertible portion of any listed convertible debt instruments issued by an issuer exceeds ten crore rupees and the issuer has not determined the conversion price of such convertible debt instruments at the time of making the issue, the holders of such convertible debt instruments shall be given the option of not converting the convertible portion into equity shares:

**Provided that** where the upper limit or conversion formula on the price of such convertible debt instruments and justification thereon is determined and disclosed to the investors at the time of making the issue, it shall not be necessary to give such

option to the holders of the convertible debt instruments for converting the convertible portion into equity share capital within the said upperlimit.

- (3) Where an option is to be given to the holders of the convertible debt instruments in terms of sub-regulation (2) and if one or more of such holders do not exercise the option to convert the instruments into equity share capital at a price determined in the general meeting of the shareholders, the issuer shall redeem that part of the instruments within one month from the last date by which option is to be exercised, at a price which shall not be less than its face value.
- (4) The provisions of sub-regulation (3) shall not apply if such redemption is in terms of the disclosures made in the offer document.

### **Issue of convertible debt instruments for financing**

**110.** An issuer shall not issue convertible debt instruments for financing or for providing loans to or for acquiring shares of any person who is part of the promoter group or group companies:

**Provided that** an issuer shall be eligible to issue fully convertible debt instruments for these purposes if the period of conversion of such debt instruments is less than eighteen months from the date of issue of such debt instruments.

### **Issue of warrants**

**111.** An issuer shall be eligible to issue warrants in a further public offer subject to the following conditions:

- a) the tenure of such warrants shall not exceed eighteen months from the date of their allotment in the public issue;
- b) a specified security may have one or more warrants attached to it;
- c) the price or formula for determination of exercise price of the warrants shall be determined upfront and at least twenty-five per cent. of the consideration amount based on the exercise price shall also be received upfront;

**Provided that** in case the exercise price of warrants is based on a formula, twenty-five per cent. Consideration amount based on the cap price of the price band determined for the linked equity shares or convertible securities shall be received upfront.

- d) in case the warrant holder does not exercise the option to take equity shares against any of the warrants held by the warrant holder, within three months from the date of payment of consideration, such consideration made in respect of such warrants shall be forfeited by the issuer.



## PART III: PROMOTERS' CONTRIBUTION

### Requirement of minimum promoters' contribution not applicable in certain cases

112. The requirements of minimum promoters' contribution shall not apply in case of:

- a) an issuer which does not have any identifiable promoter;
- b) where the equity shares of the issuer are frequently traded on a stock exchange for a period of at least three years immediately preceding the reference date, and:
  - the issuer has redressed at least ninety five per cent of the complaints received from the investors till the end of the quarter immediately preceding the month of the reference date, and;
  - the issuer has been in compliance with the SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 for a minimum period of three years immediately preceding the reference date:

**Provided that** if the issuer has not complied with the provisions of the Securities and Exchange Board of India (Listing Obligations and Disclosure Requirements) Regulations, 2015, relating to composition of board of directors, for any quarter during the last three years immediately preceding the date of filing of draft offer document/offer document, but is compliant with such provisions at the time of filing of draft offer document/offer document, and adequate disclosures are made in the offer document about such non-compliances during the three years immediately preceding the date of filing the draft offer document/offer document, it shall be deemed as compliance with the condition:

**Provided further that** where the promoters propose to subscribe to the specified securities offered to the extent greater than higher of the two options available in clause (a) of sub-regulation (1) of regulation 113, the subscription in excess of such percentage shall be made at a price determined in terms of the provisions of regulation 164 or the issue price, whichever is higher.

### Minimum promoters' contribution

113. (1) The promoters shall contribute in the public issue as follows:

- a) either to the extent of twenty per cent. of the proposed issue size or to the extent of twenty per cent. of the post-issue capital;
- b) in case of a composite issue (i.e. further public offer cum rights issue), either to the extent of twenty per cent. of the proposed issue size or to the extent of twenty per cent. of the post-issue capital excluding the rights issue component.

- (2) In case of a public issue or composite issue of convertible securities, the minimum promoters' contribution shall be as follows:
- a) the promoters shall contribute twenty per cent. as stipulated in clause (a) or (b) of sub- regulation (1), as the case may be, either by way of equity shares or by way of subscription to the convertible securities:
- Provided that** if the price of the equity shares allotted pursuant to conversion is not pre-determined and not disclosed in the offer document, the promoters shall contribute only by way of subscription to the convertible securities being issued in the public issue and shall undertake in writing to subscribe to the equity shares pursuant to conversion of such securities.
- b) in case of any issue of convertible securities which are convertible or exchangeable on different dates and if the promoters' contribution is by way of equity shares (conversion price being pre-determined), such contribution shall not be at a price lower than the weighted average price of the equity share capital arising out of conversion of such securities.
- (3) In case of a further public offer or composite issue where the promoters contribute more than the stipulated minimum promoters' contribution, the allotment with respect to excess contribution shall be made at a price determined in terms of the provisions of regulation 164 or the issue price, whichever is higher.
- (4) In case the promoters have to subscribe to equity shares or convertible securities towards promoters' contribution, the promoters shall satisfy the requirements of this regulation at least one day prior to the date of opening of the issue and the amount of promoters' contribution shall be kept in an escrow account with a scheduled commercial bank and shall be released to the issuer along with the release of the issue proceeds:
- Provided further** that where the minimum promoters' contribution is more than one hundred crore rupees and the further public offer is for partly paid shares, the promoters shall bring in at least one hundred crore rupees before the date of opening of the issue and the remaining amount may be brought on a pro-rata basis before the calls are made to the public.
- [(5) The SR equity shares of promoters, if any, shall be eligible towards computation of minimum promoters' contribution.]

**Explanation:**

- (I) For the purpose of this regulation, promoters' contribution shall be computed on the basis of the post-issue expanded capital:
- a) assuming full proposed conversion of convertible securities into equity shares;

- b) assuming exercise of all vested options, where any employee stock options are outstanding at the time of further public offer.
- (II) For computation of “weighted average price”:
- a) “weight” means the number of equity shares arising out of conversion of such specified securities into equity shares at various stages;
  - b) “price” means the price of equity shares on conversion arrived at after taking into account predetermined conversion price at various stages.

### **Securities ineligible for minimum promoters’ contribution**

- 114.** (1) For the computation of minimum promoters’ contribution, the following specified securities shall not be eligible:
- a) specified securities acquired during the preceding three years, if these are:
    - i. acquired for consideration other than cash and revaluation of assets or capitalisation of intangible assets is involved in such transaction; or
    - ii. resulting from a bonus issue by utilisation of revaluation reserves or unrealised profits of the issuer or from bonus issue against equity shares which are ineligible for minimum promoters’ contribution;
  - b) specified securities pledged with any creditor other than those for borrowings by the issuer or its subsidiaries.
- (2) Specified securities referred to in clauses (a) of sub-regulation (1) shall be eligible for the computation of promoters’ contribution, if such securities are acquired pursuant to a scheme which has been approved by the High Court under section 391 to 394 of the Companies Act, 1956 or approved by a tribunal or the Central Government under section 230 to 234 of the Companies Act, 2013.



## **PART IV: LOCK-IN AND RESTRICTIONS ON TRANSFERABILITY**

### **Lock-in of specified securities held by the promoters**

- 115.** The specified securities held by the promoters shall not be transferable (hereinafter referred to as “locked-in”) for the periods as stipulated hereunder:
- a) minimum promoters’ contribution including contribution made by alternative investment funds, or foreign venture capital investors, as applicable, shall be locked-in for a period of three years from the date of commencement of commercial production or from the date of allotment in the further public offer, whichever is later;
  - b) promoters’ holding in excess of minimum promoters’ contribution shall be locked-in for a period of one year:

[(c) The SR equity shares shall be under lock-in until their conversion to equity shares having voting rights same as that of ordinary shares, provided they are in compliance with the other provisions of these regulations.]

**Explanation:** For the purposes of this regulation, the expression "date of commencement of commercial production" means the last date of the month in which commercial production of the project in respect of which the funds raised are proposed to be utilised as stated in the offer document, is expected to commence.

#### **Lock-in of specified securities lent to stabilising agent under green shoe option**

**116.** The lock-in provisions of this part shall not apply with respect to the specified securities lent to stabilising agent for the purpose of green shoe option, during the period starting from the date of lending of such specified securities and ending on the date on which they are returned to the lender in terms of sub-regulation (5) or (6) of regulation 153:

**Provided that** the specified securities shall be locked-in for the remaining period from the date on which they are returned to the lender.

#### **Lock-in of party-paid securities**

**117.** Where the specified securities which are subject to lock-in are partly paid-up and the amount called-up on such specified securities is less than the amount called-up on the specified securities issued to the public, the lock-in shall end only on the expiry of three years after such specified securities have become paripassu with the specified securities issued to the public.

#### **Inscription or recording of non-transferability**

**118.** The certificates of specified securities which are subject to lock-in shall contain the inscription "non-transferable" and specify the lock-in period and in case such specified securities are dematerialized, the issuer shall ensure that the lock-in is recorded by the depository.

#### **Pledge of locked-in specified securities**

**119.** Specified securities [except SR equity shares,] held by the promoters and locked in may be pledged as collateral security for a loan granted by a scheduled commercial bank or a public financial institution or a systemically important non-banking finance company or a housing finance company, subject to the following:

- a) if the specified securities are locked-in in terms of clause (a) of regulation 115, the loan has been granted to the issuer company or its subsidiary/subsidiaries for the purpose of financing one or more of the objects of the issue and pledge of specified securities is one of the terms of sanction of the loan
- b) if the specified securities are locked-in in terms of clause (b) of regulation 115 and the pledge of specified securities is one of the terms of sanction of the loan.

### Transferability of locked-in specified securities

120. Subject to the provisions of the Securities and Exchange Board of India (Substantial Acquisition of shares and Takeovers) Regulations, 2011, the specified securities [,except SR equity shares,] held by the promoters and locked-in as per regulation 115 may be transferred to another promoter or any person of the promoter group or a new promoter or a person in control of the issuer:

**Provided that** lock-in on such specified securities shall continue for the remaining period with the transferee and such transferee shall not be eligible to transfer them till the lock-in period stipulated in these regulations has expired.



## PART V: APPOINTMENT OF LEAD MANAGERS, OTHER INTERMEDIARIES AND COMPLIANCE OFFICER

121. (1) The issuer shall appoint one or more merchant bankers, which are registered with the Board, as lead manager(s) to the issue.
- (2) Where the issue is managed by more than one lead manager, the rights, obligations and responsibilities, relating *inter alia* to disclosures, allotment, refund and underwriting obligations, if any, of each lead manager shall be predetermined and be disclosed in the draft offer document and the offer document as specified in **Schedule I**:
- (3) At least one lead manager to the issue shall not be an associate [as defined under the Securities and Exchange Board of India (Merchant Bankers) Regulations, 1992] of the issuer and if any of the lead managers is an associate of the issuer, it shall disclose itself as an associate of the issuer and its role shall be limited to the marketing of the issue.
- (4) The issuer shall, in consultation with the lead manager(s), appoint other intermediaries which are registered with the Board after the lead manager(s) have independently assessed the capability of other intermediaries to carry out their obligations.
- (5) The issuer shall enter into an agreement with the lead manager(s) in the format specified in **Schedule II** and enter into agreements with other intermediaries as required under the respective regulations applicable to the intermediary concerned:

**Provided that** such agreements may include such other clauses as the issuer and the intermediaries may deem fit without diminishing or limiting in any way the liabilities and obligations of the lead manager(s), other intermediaries and the issuer under the Act, the Companies Act, 2013 or the Companies Act, 1956 (to the extent applicable), the Securities Contracts (Regulation) Act, 1956, the Depositories Act, 1996 and the rules and regulations made thereunder or any statutory modification or statutory enactment thereof:

**Provided further** that in case of ASBA process, the issuer shall take cognisance of the deemed agreement of the issuer with the self-certified syndicate banks.

- (6) The issuer shall, in the case of an issue made through the book building process, appoint syndicate member(s) and in the case of any other issue, appoint bankers to an issue, at centres as specified in **Schedule XII**
- (7) The issuer shall appoint a registrar to the issue, registered with the Board, which has connectivity with all the depositories:

**Provided that** if issuer itself is a registrar, it shall not appoint itself as a registrar to the issue:

**Provided further** that the lead manager shall not act as a registrar to the issue in which it is also handling the post-issue responsibilities.

- (8) The issuer shall appoint a compliance officer who shall be responsible for monitoring the compliance of the securities laws and for redressal of investors' grievances.



## **PART VI: DISCLOSURES IN AND FILING OF OFFER DOCUMENTS**

### **Disclosures in the draft offer document and the offer document**

- 122.** (1) The draft offer document and the offer document shall contain all material disclosures which are true and adequate to enable the applicants to take an informed investment decision.
- (2) Without prejudice to the generality of sub-regulation (1), the red-herring prospectus, shelf prospectus and prospectus shall contain:
    - i. disclosures specified in the Companies Act, 2013; and
    - ii. disclosures specified in **Part A of Schedule VI**, subject to the provisions of **Parts C and D** thereof.
  - (3) The lead manager(s) shall exercise due diligence and satisfy themselves about all aspects of the issue including the veracity and adequacy of disclosures made in the draft offer document and the offer document.
  - (4) The lead manager(s) shall call upon the issuer, its promoters and its directors or in case of an offer for sale, the selling shareholders, to fulfill their obligations as disclosed by them in the draft offer document and the offer document and as required in terms of these Regulations.
  - (5) The lead manager(s) shall ensure that the information contained in the offer document and the particulars as per audited financial statements in the offer document are not more than six months old from the issue opening date.

**Filing of the draft offer document and offer documents**

123. (1) Prior to making a further public offer, the issuer shall file three copies of the draft offer document with the concerned regional office of the Board under the jurisdiction of which the registered office of the issuer company is located, in accordance with **Schedule IV**, along with fees as specified in **Schedule III**, through the lead manager(s).
- (2) The lead manager(s) shall submit the following to the Board along with the draft offer document:
- a) a certificate, confirming that an agreement has been entered into between the issuer and the lead manager(s)
  - b) a due diligence certificate as per **Form A of Schedule V**;
  - c) in case of an issue of convertible debt instruments, a due diligence certificate from the debenture trustee as per **Form B of Schedule V**;
  - d) a certificate confirming compliance of the conditions specified in **Part C of Schedule VI**.
- (3) The issuer shall also file the draft offer document with the stock exchange(s) where the specified securities are proposed to be listed, and shall submit to the stock exchange(s), the Permanent Account Number, bank account number and passport number of its promoters where they are individuals, and Permanent Account Number, bank account number, company registration number or equivalent and the address of the Registrar of Companies with which the promoter is registered, where the promoter is a body corporate.
- (4) The Board may specify changes or issue observations on the draft offer document within a period of thirty days from the later of the following dates:
- a) the date of receipt of the draft offer document under sub-regulation (1); or
  - b) the date of receipt of satisfactory reply from the lead manager(s), where the Board has sought any clarification or additional information from them or
  - c) the date of receipt of clarification or information from any regulator or agency, where the Board has sought any clarification or information from such regulator or agency; or
  - d) the date of receipt of a copy of in-principle approval letter issued by the stock exchange(s).
- (5) If the Board specifies changes or issues observations on the draft offer document, the issuer and the lead manager(s) shall carry out such changes in the draft offer document and shall submit to the Board an updated draft offer document complying

with the observations issued by the Board and highlighting all changes made in the draft offer document before filing the offer documents with the Registrar of Companies or the appropriate authority, as applicable.

- (6) If there are any changes in the draft offer document in relation to the matters specified in **Schedule XVI**, the updated offer document or a fresh draft offer document, as the case may be, shall be filed with the Board along with fees specified in **Schedule III**.
- (7) Copy of the offer documents shall also be filed with the Board and the stock exchanges through the lead manager(s) simultaneously while filing the offer documents with Registrar of Companies.
- (8) The draft offer document and the offer document shall also be furnished to the Board in a soft copy in the manner as may be specified.
- (9) The lead manager(s) shall submit the following documents to the Board after issuance of observations by the Board or after expiry of the period stipulated in sub-regulation (4) of regulation 123 if the Board has not issued observations:
  - a) a statement certifying that all changes, suggestions and observations made by the Board have been incorporated in the offer document;
  - b) a due diligence certificate as per **Form C of Schedule V**, at the time of filing of the offer document;
  - c) a copy of the resolution passed by the board of directors of the issuer for allotting specified securities to promoters towards amount received against promoters' contribution, before opening of the issue;
  - d) a certificate from a Chartered Accountant, before opening of the issue, certifying that promoters' contribution has been received in accordance with these regulations, accompanying therewith the names and addresses of the promoters who have contributed to the promoters' contribution and the amount paid and credited to the bank account of the issuer by each of them towards such contribution;
  - e) a due diligence certificate as per **Form D of Schedule V**, in the event the issuer has made a disclosure of any material development by issuing a public notice.

#### **Draft offer document and offer document to be available to the public**

- 124.** (1) The draft offer document filed with the Board shall be made public for comments, if any, for a period of at least twenty one days from the date of filing, by hosting it on the websites of the Board, stock exchanges where specified securities are proposed to be listed and lead manager(s) associated with the issue.
- (2) The issuer shall, within two days of filing the draft offer document with the Board, make a public announcement in one English national daily newspaper with wide circulation,

one Hindi national daily newspaper with wide circulation and one regional language newspaper with wide circulation at the place where the registered office of the issuer is situated, disclosing to the public the fact of filing of the draft offer document with the Board and inviting the public to provide their comments to the Board, the issuer or the lead manager(s) in respect of the disclosures made in the draft offer document.

- (3) The lead manager(s) shall, after expiry of the period stipulated in sub-regulation (1), file with the Board, details of the comments received by them or the issuer from the public, on the draft offer document, during that period and the consequential changes, if any, that are required to be made in the draft offer document.
- (4) The issuer and the lead manager(s) shall ensure that the offer documents are hosted on the websites as required under these regulations and its contents are the same as the versions as filed with the Registrar of Companies, the Board and the stock exchanges, as applicable.
- (5) The lead manager(s) and the stock exchanges shall provide copies of the offer documents, to the public as and when requested and may charge a reasonable sum for providing a copy of the same.

## PART VII - PRICING

### Face value of equity shares

125. The disclosure about the face value of equity shares shall be made in the draft offer document, offer document, advertisements and application forms, along with the price band or the issue price in identical font size.

### Pricing

126. (1) The issuer may determine the price of equity shares, and in case of convertible securities, the coupon rate and the conversion price, in consultation with the lead manager(s) or through the book building process, as the case maybe.
- (2) The issuer shall undertake the book building process in the manner specified in **Schedule XIII**.

### Price and price band

127. (1) The issuer may mention a price or a price band in the offer document (in case of a fixed price issue) and a floor price or a price band in the red herring prospectus (in case of a book built issue) and determine the price at a later date before [filing] the prospectus with the Registrar of Companies:

**Provided that** the prospectus filed with the Registrar of Companies shall contain only one price or the specific coupon rate, as the case may be.

- (2) The cap on the price band, and the coupon rate in case of convertible debt instruments, shall be less than or equal to one hundred and twenty percent. Of the floor price.
- (3) The floor price or the final price shall not be less than the face value of the specified securities.
- (4) Where the issuer opts not to make the disclosure of the floor price or price band in the red herring prospectus, the issuer shall announce the floor price or the price band at least one working day before the opening of the bid in the same newspapers in which the pre-issue advertisement was released or together with the pre-issue advertisement in the format prescribed under Part A of **Schedule X**.
- (5) The announcement referred to in sub-regulation (4) shall contain relevant financial ratios computed for both upper and lower end of the price band and also a statement drawing attention of the investors to the section title "basis of issue price" of the offer document.
- (6) The announcement referred to in sub-regulation (4) and the relevant financial ratios referred to in sub-regulation (5) shall be disclosed on the websites of the stock exchange(s) and shall also be pre-filled in the application forms to be made available on the websites of the stock exchange(s).

### **Differential pricing**

- 128.** (1) The issuer may offer its specified securities at different prices, subject to the following:
- a) retail individual investors or retail individual shareholders or employees entitled for reservation made under regulation 130 may be offered specified securities at a price not lower than by more than ten per cent. of the price at which net offer is made to other categories of applicants, excluding anchor investors;
  - b) in case of a book built issue, the price of the specified securities offered to the anchor investors shall not be lower than the price offered to other applicants;
  - c) in case of a composite issue, the price of the specified securities offered in the public issue may be different from the price offered in rights issue and justification for such price difference shall be given in the offer document.
  - d) in case the issuer opts for the alternate method of book building in terms of **Part D of Schedule XIII**, the issuer may offer the specified securities to its employees at a price not lower by more than ten per cent. of the floor price.
- (2) Discount, if any, shall be expressed in rupee terms in the offer document.



## PART VIII: ISSUANCE CONDITIONS AND PROCEDURE

### Allocation in the net offer

129. (1) In an issue made through the book building process under sub-regulation (1) of regulation 103, the allocation in theretofore category shall be as follows:

- a) Not less than thirty five percent to retail individual investors;
- b) Not less than fifteen per cent. to non-institutional investors;
- c) Not more than fifty per cent. to qualified institutional buyers, five per cent. of which shall be allocated to mutual funds:

**Provided that** the unsubscribed portion in either of the categories specified in clauses (a) or (b) may be allocated to applicants in any other category:

**Provided further** that in addition to five per cent allocation available in terms of clause (c), mutual funds shall be eligible for allocation under the balance available for qualified institutional buyers.

(2) In an issue made through the book building process under sub-regulation (2) of regulation 103, the allocation in theretofore category shall be as follows:

- a) Not more than ten per cent. to retail individual investors;
- b) Not more than fifteen per cent. to non-institutional investors;
- c) Not less than seventy five per cent. to qualified institutional buyers, five per cent. of which shall be allocated to mutual funds:

**Provided that** the unsubscribed portion in either of the categories specified in clauses (a) or (b) may be allocated to applicants in the other category:

**Provided further** that in addition to five per cent allocation available in terms of clause (c), mutual funds shall be eligible for allocation under the balance available for qualified institutional buyers.

(3) In an issue made through the book building process, the issuer may allocate up to sixty per cent. of the portion available for allocation to qualified institutional buyers to anchor investors in accordance with the conditions specified in this regard in **Schedule XIII**.

(4) In an issue made other than through the book building process, allocation in the net offer category shall be made as follows:

- a) minimum fifty per cent. to retail individual investors; and
- b) remaining to:

- (i) individual applicants other than retail individual investors; and
- (ii) other investors including corporate bodies or institutions, irrespective of the number of specified securities applied for;

**Provided that** the unsubscribed portion in either of the categories specified in clauses (a) or (b) may be allocated to applicants in the other category.

**Explanation:** For the purpose of sub-regulation (4), if the retail individual investor category is entitled to more than fifty per cent. of the issue size on a proportionate basis, the retail individual investors shall be allocated that higher percentage.

### **Reservation on a competitive basis**

- 130.** (1) The issuer may make reservations on a competitive basis out of the issue size excluding promoters' contribution in favour of the following categories of persons:
- a) employees;
  - b) shareholders (other than promoters and promoter group) of listed subsidiaries or listed promoter companies:

**Provided that** the issuer shall not make any reservation for the lead manager(s), registrar, syndicate member(s), their promoters, directors and employees and for the group or associate companies (as defined under the Companies Act, 2013) of the lead manager(s), registrar and syndicate member(s) and their promoters, directors and employees.

- (2) In a further public offer, other than in a composite issue, the issuer may make a reservation on a competitive basis out of the issue size excluding promoters' contribution for the existing retail individual shareholders of the issuer.
- (3) The reservations on competitive basis shall be subject to following conditions:
  - a) The aggregate of reservation for employees shall not exceed five per cent. of the post-issue capital of the issuer and the value of allotment to any employee shall not exceed two lakhs rupees:

**Provided that** in the event of under-subscription in the employee reservation portion, the unsubscribed portion may be allotted on a proportionate basis, for a value in excess of two lakhs rupees, subject to the total allotment to an employee not exceeding five lakhs rupees.

- b) Reservation for shareholders shall not exceed ten percent of the issue size;
- c) no further application for subscription in the net offer can be made by persons (except an employee and retail individual shareholder of the listed issuer and retail individual shareholders of listed subsidiaries of listed promoter companies) in favour of whom reservation on a competitive basis is made;

- d) any unsubscribed portion in any reserved category may be added to any other reserved category/categories and the unsubscribed portion, if any, after such inter-se adjustments amongst the reserved categories shall be added to the net offer category;
  - e) in case of under-subscription in the net offer category, spill-over to the extent of under-subscription shall be permitted from there served category to the net public offer.
- (4) An applicant in any reserved category may make an application for any number of specified securities, but not exceeding the reserved portion for that category.

#### **Abridged prospectus**

131. (1) The abridged prospectus shall contain the disclosures as specified in **Part E of Schedule VI** and shall not contain any matter extraneous to the contents of the offer document.
- (2) Every application form distributed by the issuer or any other person in relation to an issue shall be accompanied by a copy of the abridged prospectus.

#### **ASBA**

132. The issuer shall accept bids using only the ASBA facility in the manner specified by the Board.

#### **Availability of issue material**

133. The lead manager(s) shall ensure availability of the offer document and other issue material including application forms to stock exchanges, syndicate members, registrar to issue, registrar and share transfer agents, depository participants, stock brokers, underwriters, bankers to the issue, investors' associations and self certified syndicate banks before the opening of the issue.

#### **Prohibition on payment of incentives**

134. Any person connected with the issue, shall not offer any incentive, whether direct or indirect, in any manner, whether in cash or kind or services or otherwise to any person for making an application in the initial public offer, except for fees or commission for services rendered in relation to the issue.

#### **Security deposit**

135. (1) The issuer shall, before the opening of the subscription list, deposit with the designated stock exchange, an amount calculated at the rate of one per cent. of the issue size available for subscription to the public in the manner specified by the Board and/or the stock exchange(s).
- (2) The amount specified in sub-regulation (1) shall be refundable or forfeitable in the manner specified by the Board.

## Underwriting

136. (1) If the issuer making a further public offer, other than through the book building process, desires to have the issue underwritten, it shall appoint the underwriters in accordance with the Securities and Exchange Board of India (Underwriters) Regulations, 1993.
- (2) If the issuer makes a public issue through the book building process,
- a) the issue shall be underwritten by lead manager(s) and syndicate member(s):  
**Provided that** at least seventy five per cent. of the net offer proposed to be compulsorily allotted to qualified institutional buyers for the purpose of compliance of the eligibility conditions specified in sub-regulation (2) of regulation 103, shall not be underwritten.
  - b) the issuer shall, prior to filing the prospectus, enter into underwriting agreement with the lead manager(s), and syndicate member(s), indicating therein the number of specified securities which they shall subscribe to at the predetermined price in the event of under- subscription in the issue.
  - c) if the syndicate member(s) fail to fulfil their underwriting obligations, the lead manager(s) shall fulfill the underwriting obligations.
  - d) the lead manager(s) and syndicate member(s) shall not subscribe to the issue in any manner except for fulfilling their underwriting obligations.
  - e) in case of every underwritten issue, the lead manager(s) shall undertake minimum underwriting obligations as specified in the Securities and Exchange Board of India (Merchant Bankers) Regulations, 1992.
  - f) where the issue is required to be underwritten, the underwriting obligations should at least be to the extent of minimum subscription.

## Monitoring agency

137. (1) If the issue size, excluding the size of offer for sale by selling shareholders, exceeds one hundred crore rupees, the issuer shall make arrangements for the use of proceeds of the issue to be monitored by a public financial institution or by a scheduled commercial bank named in the offer document as the bankers of the issuer:  
**Provided that** nothing contained in this clause shall apply to an issue of specified securities made by a bank or public financial institution or an insurance company.
- (2) The monitoring agency shall submit its report to the issuer in the format specified in **Schedule XI** on a quarterly basis, till at least ninety five per cent. of the proceeds of the issue, excluding the proceeds raised for general corporate purposes, have been utilised.

- (3) The board of directors and the management of the issuer shall provide their comments on the findings of the monitoring agency as specified in **Schedule XI**.
- (4) The issuer shall, within forty five days from the end of each quarter, publicly disseminate the report of the monitoring agency by uploading the same on its website as well as submitting the same to the stock exchange(s) on which its equity shares are listed.

#### **Public communications, publicity materials, advertisements and research reports**

**138.** All public communication, publicity materials, advertisements and research reports shall comply with provisions of **Schedule IX**.

#### **Issue-related advertisements**

**139.** (1) Subject to the provisions of the Companies Act, 2013, the issuer shall, after filing the red herring prospectus (in case of a book built issue) or prospectus (in case of fixed price issue) with the Registrar of Companies, make a pre-issue advertisement in one English national daily newspaper with wide circulation, Hindi national daily newspaper with wide circulation and one regional language newspaper with wide circulation at the place where the registered office of the issuer is situated.

- (2) The pre-issue advertisement shall be in the format and shall contain the disclosures specified in **Part A of Schedule X**.

**Provided that** the disclosures in relation to price band or floor price and financial ratios contained therein shall be applicable only where the issuer opts to announce the price band or floor price along with the pre-issue advertisement pursuant to sub-regulation (4) of regulation 127.

- (3) The issuer may release advertisements for issue opening and issue closing, which shall be in the formats specified in **Parts B and C of Schedule X**.
- (4) During the period the issue is open for subscription, no advertisement shall be released giving an impression that the issue has been fully subscribed or oversubscribed or indicating investors' response to the issue.

#### **Opening of the issue**

**140.** (1) Subject to the compliance with the provisions of the Companies Act, 2013, a public issue may be opened within twelve months from the date of issuance of the observations by the Board under sub-regulation (4) of regulation 123; or

**Provided that** in case of a fast track issue, the issue shall open within the period specifically stipulated under the Companies Act, 2013.

- (2) In case of shelf prospectus, the first issue may be opened within three months of issuance of observations by the Board.

- (3) The issue shall be opened after at least three working days from the date of filing the red herring prospectus with the Registrar of Companies in case of book built issues and prospectus with the Registrar of Companies in case of fixed price issues.

### Minimum subscription

141. (1) The minimum subscription to be received in the issue shall be at least ninety per cent. of the offer through the offer document, except in case of an offer for sale of specified securities.
- (2) In the event of non-receipt of minimum subscription referred to in sub-regulation (1), all application monies received shall be refunded to the applicants forthwith, but not later than fifteen days from the closure of the issue.

### Period of subscription

142. (1) Except as otherwise provided in these regulations, a further public issue shall be kept open for at least three working days and not more than ten working days.
- (2) In case of a revision in the price band, the issuer shall extend the bidding (issue) period disclosed in the red herring prospectus, for a minimum period of three working days, subject to the provisions of sub-regulation(1).
- (3) In case of force majeure, banking strike or similar circumstances, the issuer may, for reasons to be recorded in writing, extend the bidding (issue)period disclosed in the red herring prospectus (in case of a book built issue) or the issue period disclosed in the prospectus (in case of a fixed price issue), for a minimum period of three working days, subject to the provisions of sub-regulation(1).

### Application and minimum application value

143. (1) A person shall not make an application in the net offer category for a number of specified securities that exceeds the total number of specified securities offered to public.

**Provided that** the maximum application by non-institutional investors shall not exceed total number of specified securities offered in the issue less total number of specified securities offered in the issue to qualified institutional buyers.

- (2) The issuer shall stipulate in the offer document the minimum application size in terms of number of specified securities which shall fall within the range of minimum application value of ten thousand rupees to fifteen thousand rupees.
- (3) The issuer shall invite applications in multiples of the minimum application value, an illustration whereof is given in **Part B of Schedule XIV**.
- (4) The minimum sum payable on application per specified security shall be at least twenty five per cent. of the issue price:

**Provided** that in case of an offer for sale, the full issue price for each specified security shall be payable at the time of application.

**Explanation:** For the purpose of this regulation “minimum application value” shall be with reference to the issue price of the specified securities and not with reference to the amount payable on application.

#### **Manner of calls**

**144.** If the issuer proposes to receive subscription monies in calls, it shall ensure that the outstanding subscription money is called within twelve months from the date of allotment in the issue and if any applicant fails to pay the call money within the said twelve months, the equity shares on which there are calls in arrear along with the subscription money already paid on such shares shall be forfeited:

**Provided that** it shall not be necessary to call the outstanding subscription money within twelve months, if the issuer has appointed a monitoring agency in terms of regulation 137.

#### **Allotment procedure and basis of allotment**

- 145.** (1) The issuer shall not make an allotment pursuant to a public issue if the number of prospective allottees is less than one thousand.
- (2) The issuer shall not make any allotment in excess of the specified securities offered through the offer document except in case of oversubscription for the purpose of rounding off to make allotment, in consultation with the designated stock exchange.

**Provided that** in case of oversubscription, an allotment of not more than one per cent of the net offer to public may be made for the purpose of making allotment in minimum lots.

- (3) The allotment of specified securities to applicants other than retail individual investors and anchor investors shall be on proportionate basis within the specified investor categories and the number of securities allotted shall be rounded off to the nearest integer, subject to minimum allotment being equal to the minimum application size as determined and disclosed by the issuer:

**Provided that** value of specified securities allotted to any person, except in case of employees, in pursuance of reservation made under clause (a) of sub-regulation (1) or clause (a) of sub-regulation (2) of regulation 130, shall not exceed two lakhs rupees.

- (4) The allotment of specified securities to each retail individual investor shall not be less than the minimum bid lot, subject to availability of shares in retail individual investor category, and the remaining available shares, if any, shall be allotted on a proportionate basis.
- (5) The authorised employees of the designated stock exchange along with the lead manager(s) and registrars to the issue shall ensure that the basis of allotment is

finalised in a fair and proper manner in accordance with the allotment procedure as specified in **Part A of Schedule XIV**.

#### **Allotment, refund and payment of interest**

- 146.** (1) The issuer and lead manager(s) shall ensure that specified securities are allotted and/or application monies are refunded and blocked within such period as may be specified by the Board.
- (2) The lead manager(s) shall ensure that the allotment, credit of dematerialised securities, refunding or unblocking of application monies, as may be applicable, are done electronically.
- (3) Where specified securities are not allotted and/or application monies are not refunded or unblocked within the period stipulated in sub-regulation (1) above, the issuer shall undertake to pay interest at the rate of fifteen per cent. per annum to the investors and within such time as disclosed in the offer document and the lead manager(s) shall ensure the same.

#### **Post-issue Advertisements**

- 147.** (1) The lead manager(s) shall ensure that advertisement giving details relating to subscription, basis of allotment, number, value and percentage of all applications including ASBA, number, value and percentage of successful allottees for all applications including ASBA, date of completion of despatch of refund orders, as applicable, or instructions to self-certified syndicate banks by the registrar, date of credit of specified securities and date of filing of listing application, etc. is released within ten days from the date of completion of the various activities in at least one English national daily newspaper with wide circulation, one Hindi national daily newspaper with wide circulation and one regional language daily newspaper with wide circulation at the place where registered office of the issuer is situated.
- (2) Details specified in sub regulation (1) shall also be placed on the websites of the stock exchanges.

#### **Post-issue responsibilities of the lead manager(s)**

- 148.** (1) The responsibility of the lead manager(s) shall continue until completion of issue process and for any issue related matter thereafter.
- (2) The lead manager(s) shall regularly monitor redressal of investor grievances arising from any issue related activities.
- (3) The lead manager(s) shall continue to be responsible for post-issue activities till the applicants have received the securities certificates, credit to their demat account or refund of application monies and the listing agreement is entered into by the issuer with the stock exchange and listing or trading permission is obtained.

- (4) The lead manager(s) shall be responsible for and co-ordinate with the registrars to the issue and with various intermediaries at regular intervals after the closure of the issue to monitor the flow of applications from syndicate member(s) or collecting bank branches and or self-certified syndicate banks, processing of the applications including application form for ASBA and other matters till the basis of allotment is finalised, credit of the specified securities to the demat accounts of the allottees and unblocking of ASBA accounts/ despatch of refund orders are completed and securities are listed, as applicable.
- (5) Any act of omission or commission on the part of any of the intermediaries noticed by the lead manager(s) shall be duly reported by them to the Board.
- (6) In case there is a devolvement on underwriters, the lead manager(s) shall ensure that the notice for devolvement containing the obligation of the underwriters is issued within a period of ten days from the date of closure of the issue.
- (7) In case of undersubscribed issues that are underwritten, the lead manager(s) shall furnish information to the Board in respect of underwriters who have failed to meet their underwriting devolvement in the format specified in **Schedule XVIII**.

#### **Release of subscription money**

- 149.** (1) The lead manager(s) shall confirm to the bankers to the issue by way of copies of listing and trading approvals that all formalities in connection with the issue have been completed and that the banker is free to release the money to the issuer or release the money for refund in case of failure of the issue.
- (2) In case the issuer fails to obtain listing or trading permission from the stock exchanges where the specified securities were listed, it shall refund, through verifiable means, the entire monies received within seven days of receipt of intimation from stock exchanges rejecting the application for listing of specified securities and if monies are not repaid within the specified period, the issuer and every director of the company who is an officer in default shall, on and from the expiry of the eighth day, be jointly and severally liable to repay that money with interest at the rate of fifteen per cent. Per annum.
- (3) The lead manager(s) shall ensure that the monies received in respect of the issue are released to the issuer in compliance with the provisions of the Section 40 (3) of the Companies Act, 2013, as applicable.

#### **Reporting of transactions by the promoters and promoter group**

- 150.** The issuer shall ensure that all transactions in securities by the promoters and promoter group between the date of filing of the draft offer document or offer document, as the case may be, and the date of closure of the issue shall be reported to the stock exchanges, within twenty four hours of such transactions.

**Post- issue reports**

151. The lead manager(s) shall submit a final post-issue report as specified in **Part A of Schedule XVII**, along with a due diligence certificate as per the format specified in **Form F of Schedule V**, within seven days of the date of finalization of basis of allotment or within seven days of refund of money in case of failure of issue.

**PART IX: MISCELLANEOUS****Restriction on further capital issues**

152. An issuer shall not make any further issue of specified securities in any manner whether by way of public issue, rights issue, preferential issue, qualified institutions placement, issue of bonus shares or otherwise, except pursuant to an employee stock option scheme:
- a) in case of a fast track issue, during the period between the date of filing the offer document (in case of a book built issue) or prospectus (in case of a fixed price issue) with the Registrar of Companies and the listing of the specified securities offered through the offer document or refund of application monies; or
  - b) in case of other issues, during the period between the date of filing the draft offer document and the listing of the specified securities offered through the offer document or refund of application nominees; unless full disclosures regarding the total number of specified securities or amount proposed to be raised from such further issue are made in such draft offer document or offer document, as the case may be.

**Price stabilisation through green shoe option**

153. (1) An issuer may provide green shoe option for stabilizing the post listing price of its specified securities, subject to the following:
- a) the issuer has been authorized, by a resolution passed in the general meeting of shareholders approving the public issue, to allot specified securities to the stabilising agent, if required, on the expiry of the stabilization period;
  - b) the issuer has appointed a lead manager as a stabilising agent, who shall be responsible for the price stabilization process;
  - c) prior to filing the draft offer document, the issuer and the stabilizing agent have entered into an agreement, stating all the terms and conditions relating to the green shoe option including fees charged and expenses to be incurred by the stabilising agent for discharging its responsibilities;
  - d) prior to filing the offer document, the stabilizing agent has entered into an agreement with the promoters or pre-issue shareholders or both for borrowing specified securities from them in accordance with clause (g) of this sub-regulation, specifying therein the maximum number of specified securities that may be borrowed for the purpose of allotment or allocation of specified

- securities in excess of the issue size (hereinafter referred to as the “over-allotment”), which shall not be in excess of fifteen percent. Of the issue size;
- e) subject to clause (d), the lead manager, in consultation with the stabilising agent, shall determine the amount of specified securities to be over-allotted in the public issue;
  - f) the draft offer document and offer document shall contain all material disclosures about the green shoe option specified in this regard in **Part A of Schedule VI**;
  - g) in case of an initial public offer pre-issue shareholders and promoters and in case of a further public offer pre-issue, shareholders holding more than five per cent. specified securities and promoters may lend specified securities to the extent of the proposed over-allotment.
  - h) the specified securities borrowed shall be in dematerialized form and allocation of these securities shall be made pro-rata to all successful applicants.
- (2) For the purpose of stabilization of post-listing price of the specified securities, the stabilising agent shall determine the relevant aspects including the timing of buying such securities, quantity to be bought and the price at which such securities are to be bought from the market.
  - (3) The stabilisation process shall be available for a period not exceeding thirty days from the date on which trading permission is given by the stock exchanges in respect of the specified securities allotted in the public issue.
  - (4) The stabilizing agent shall open a special account, distinct from the issue account, with a bank for crediting the monies received from the applicants against the over-allotment and a special account with a depository participant for crediting specified securities to be bought from the market during the stabilisation period out of the monies credited in the special bank account.
  - (5) The specified securities bought from the market and credited in the special account with the depository participant shall be returned to the promoters or pre-issue shareholders immediately, in any case not later than two working days after the end of the stabilization period.
  - (6) On expiry of the stabilisation period, if the stabilising agent has not been able to buy specified securities from the market to the extent of such securities over-allotted, the issuer shall allot specified securities at issue price in dematerialized form to the extent of the shortfall to the special account with the depository participant, within five days of the closure of the stabilization period and such specified securities shall be returned to the promoters or pre-issue shareholders by the stabilizing agent in lieu of the specified securities borrowed from them and the account with the depository participant shall be closed thereafter.

- (7) The issuer shall make a listing application in respect of the further specified securities allotted under sub-regulation (6), to all the stock exchanges where the specified securities allotted in the public issue are listed and the provisions of Chapter VII shall not be applicable to such allotment.
- (8) The stabilizing agent shall remit the monies with respect to the specified securities allotted under sub-regulation (6) to the issuer from the special bank account.
- (9) Any monies left in the special bank account after remittance of monies to the issuer under sub-regulation (8) and deduction of expenses incurred by the stabilizing agent for the stabilisation process shall be transferred to the Investor Protection and Education Fund established by the Board and the special bank account shall be closed soon thereafter.
- (10) The stabilizing agent shall submit a report to the stock exchange on a daily basis during the stabilization period and a final report to the Board in the format specified in **Schedule XV**.
- (11) The stabilizing agent shall maintain a register for a period of at least three years from the date of the end of the stabilization period and such register shall contain the following particulars:
  - a) The names of the promoters or pre-issue shareholders from whom the specified securities were borrowed and the number of specified securities borrowed from each of them;
  - b) The price, date and time in respect of each transaction effected in the course of the stabilization process; and
  - c) The details of allotment made by the issuer on expiry of the stabilization process.

#### **Alteration of rights of holders of specified securities**

- 154.** An issuer shall not alter the terms, including the terms of issue, of specified securities which may adversely affect the interests of the holders of that specified securities, except with the consent in writing of the holders of not less than three-fourths of the specified securities of that class or with the sanction of a special resolution passed at a meeting of the holders of the specified securities of that class.



## PART X: FAST TRACK FURTHER PUBLIC OFFER

### Eligibility conditions

155. Sub-regulations (1), (2), (3), (4) and (5) and (9) of regulation 123 shall not apply if the issuer satisfies the following conditions for making a further public offer through the fast track route:

- a) equity shares of the issuer have been listed on any stock exchange for a period of at least three years immediately preceding the reference date;
- b) entire shareholding of the promoter group of the issuer is held in dematerialised form on the reference date
- c) average market capitalisation of public shareholding of the issuer is at least one thousand crore rupees in case of public issue;

“average market capitalisation of public shareholding” means the sum of daily market capitalisation of public shareholding for a period of one year up to the end of the quarter preceding the month in which the proposed issue was approved by the shareholders or the board of the issuer, as the case may be, divided by the number of trading days.

“public shareholding” shall have the same meaning as assigned to it under the Securities Contracts (Regulation) Rules, 1957.

- d) annualised trading turnover of the equity shares of the issuer during six calendar months immediately preceding the month of the reference date has been at least two per cent. of the weighted average number of equity shares listed during such six months 'period:

**Provided that** for issuers, whose public shareholding is less than fifteen per cent of its issued equity capital, the annualised trading turnover of its equity shares has been at least two per cent. of the weighted average number of equity shares available as free float during such six months 'period;

- e) annualized delivery-based trading turnover of the equity shares during six calendar months immediately preceding the month of the reference date has been at least ten per cent. of the annualised trading turnover of the equity shares during such six months 'period;
- f) issuer has been in compliance with the equity listing agreement or the Securities and Exchange Board of India (Listing Obligations and Disclosure Requirements) Regulations, 2015, as applicable, for a period of at least three years immediately preceding the reference date:

**Provided that** if the issuer has not complied with the provisions of the listing agreement or the Securities and Exchange Board of India (Listing Obligations and

Disclosure Requirements) Regulations, 2015, as applicable, relating to composition of board of directors, for any quarter during the last three years immediately preceding the reference date, but is compliant with such provisions at the time of filing of letter of offer, and adequate disclosures are made in the letter of offer about such non-compliances during the three years immediately preceding the reference date, it shall be deemed as compliance with the condition;

**Provided further** that imposition of only monetary fines by stock exchanges on the issuer shall not be a ground for ineligibility for undertaking issuances under this regulation;

- g) issuer has redressed at least ninety five per cent. of the complaints received from the investors till the end of the quarter immediately preceding the month of the reference date;
- h) no show-cause notices have been issued or prosecution proceedings have been initiated by the Board and pending against the issuer or its promoters or whole-time directors as on the reference date;
- i) issuer or promoter or promoter group or director of the issuer has not settled any alleged violation of securities laws through the consent or settlement mechanism with the Board during three years immediately preceding the reference date;
- j) equity shares of the issuer have not been suspended from trading as a disciplinary measure during last three years immediately preceding the reference date;
- k) there shall be no conflict of interest between the lead manager(s) and the issuer or its group companies in accordance with the applicable regulations.
- l) impact of audit qualifications, if any and where quantifiable, on the audited accounts of the issuer in respect of those financial years for which such accounts are disclosed in the letter of offer does not exceed five per cent. of the net profit or loss after tax of the issuer for the respective years.

#### **Submission of offer document and due diligence certificate**

156. (1) The issuer shall file the offer document with the Board and the stock exchanges in accordance with sub-regulations (7) and (8) of regulation 123 and shall pay fees to the Board as specified in **Schedule III**.
- (2) The lead manager(s) shall submit to the Board, the following documents along with the offer document:
- a) a due diligence certificate as per **Form A of Schedule V** including additional confirmations as specified in **Form E of Schedule V**;
  - b) in case of a fast track issue of convertible debt instruments, a due diligence certificate from the debenture trustee as per **Form B of Schedule V**.

**Explanation:** For the purposes of this regulation: “reference date” means the date of [filing] the red herring prospectus (in case of a book built issue) or prospectus (in case of a fixed price issue) with the Registrar of Companies.

### Post-listing exit opportunity for dissenting shareholders

157. In case of further public offers, including under the fast track route, the promoters or shareholders in control of an issuer shall provide an exit offer to dissenting shareholders as provided for in the Companies Act, 2013, in case of change in objects or variation in the terms of contract related to objects referred to in the offer document as per conditions and manner is provided in **Schedule XX**.

**Provided that** the exit offer shall not apply where there are neither identifiable promoters nor shareholders in control of the listed issuer.

## CHAPTER V



### PREFERENTIAL ISSUE

#### Provisions of this chapter not to apply in certain cases

158. (1) The provisions of this Chapter shall not apply where the preferential issue of equity shares is made pursuant to:
- a) conversion of a loan or an option attached to convertible debt instruments in terms of sub-sections (3) and (4) of sections 81 of the Companies Act, 1956 or sub-section (3) and (4) of section 62 of the Companies Act, 2013, whichever is applicable;
  - b) a scheme approved by a High Court under section 391 to 394 of the Companies Act, 1956 or approved by a tribunal or the Central Government under sections 230 to 234 of the Companies Act, 2013, as applicable;
- Provided that** the pricing provisions of this Chapter shall apply to the issuance of shares under schemes mentioned in clause (b) in case of allotment of shares only to a select group of shareholders or shareholders of unlisted companies pursuant to such schemes;
- c) a qualified institutions placement in accordance with Chapter VI of these regulations.
- (2) The provisions of this Chapter, except the lock-in provisions, shall not apply where the preferential issue of specified securities is made in terms of the rehabilitation scheme approved by the Board of Industrial and Financial Reconstruction under the Sick Industrial Companies (Special Provisions) Act, 1985 [1 of 1986] or the resolution plan approved under Section 31 of the Insolvency & Bankruptcy Code, 2016 [No. 31 of 2016], whichever is applicable.

- (3) The provisions of this Chapter relating to pricing and lock-in shall not apply to equity shares allotted to any financial institution within the meaning of sub-clauses (ia) and (ii) of clause (h) of section 2 of the Recovery of Debts due to Banks and Financial Institutions Act, 1993 (51 of 1993).
- (4) The provisions of regulation 163 and sub-regulations (1), (2), (3) and (4) of regulation 164 shall not apply to a preferential issue of equity shares and compulsorily convertible debt instruments, whether fully or partly, where the Board has granted relaxation to the issuer in terms of regulation 11 of the Securities and Exchange Board of India (Substantial Acquisition of Shares and Takeovers) Regulations, 2011, if adequate disclosures about the plan and process proposed to be followed for identifying the allottees are given in the explanatory statement to notice for the general meeting of the shareholders.
- (5) The provisions of sub-regulation (1) of regulation 159 and sub-regulation (6) of regulation 167 shall not apply to a preferential issue of specified securities where the proposed allottee is a mutual fund registered with the Board or insurance company registered with Insurance Regulatory and Development Authority of India or a scheduled commercial bank or a public financial institution.
- (6) The provisions of this Chapter shall not apply where the preferential issue of specified securities is made to the lenders pursuant to conversion of their debt, as part of a debt restructuring implemented in accordance with the guidelines specified by the Reserve Bank of India, subject to the following conditions:
  - a) guidelines for determining the conversion price have been specified by the Reserve Bank of India in accordance with which the conversion price shall be determined and which shall be in compliance with the applicable provisions of the Companies Act, 2013;
  - b) conversion price shall be certified by two independent valuers;
  - c) specified securities so allotted shall be locked-in for a period of one year from the date of their allotment  
**Provided that** for the purpose of transferring the control, the lenders may transfer the specified securities allotted to them before completion of the lock-in period subject to continuation of the lock-in on such securities for the remaining period, with the transferee;
  - d) the lock-in of equity shares allotted pursuant to conversion of convertible securities issued on preferential basis shall be reduced to the extent the convertible securities have already been locked-in;
  - e) the applicable provisions of the Companies Act, 2013 are complied with, including the requirement of a special resolution.



## PART I: ISSUERS INELIGIBLE TO MAKE A PREFERENTIAL ISSUE

159. (1) Preferential issue of specified securities shall not be made to any person who has sold or transferred any equity shares of the issuer during the six months preceding the relevant date:

**Provided that** in respect of the preferential issue of equity shares and compulsorily convertible debt instruments, whether fully or partly, the Board may grant relaxation from the requirements of this sub-regulation, if the Board has granted relaxation in terms of sub-regulation (2) of regulation 11 of the Securities and Exchange Board of India (Substantial Acquisition of Shares and Takeovers) Regulations, 2011 to such a preferential allotment.

**Explanation:** Where any person belonging to promoter(s) or the promoter group has sold/ transferred their equity shares in the issuer during the six months preceding the relevant date, the promoter(s) and promoter group shall be ineligible for allotment of specified securities on preferential basis.

**Provided that** the above restriction shall not apply to any sale of equity shares by any person belonging to promoter(s) of the promoter group which qualifies for inter-se transfer amongst qualifying persons under clause (a) of sub-regulation (1) of regulation 10 of the Securities and Exchange Board of India (Substantial Acquisition of Shares and Takeover Regulations), 2011 or in case of transfer of shares held by the promoters or promoter group on account of invocation of pledge by a scheduled commercial bank or public financial institution or a systemically important non-banking finance company or mutual fund or insurance company registered with the Insurance Regulatory and Development Authority.

- (2) Where any person belonging to promoter(s) or the promoter group has previously subscribed to warrants of an issuer but has failed to exercise the warrants, the promoter(s) and promoter group shall be ineligible for issue of specified securities of such issuer on preferential basis for a period of one year from:
- a) the date of expiry of the tenure of the warrants due to non-exercise of the option to convert; or
  - b) the date of cancellation of the warrants, as the case maybe.
- (3) An issuer shall not be eligible to make a preferential issue if any of its promoters or directors is a fugitive economic offender.



## PART II: CONDITIONS FOR PREFERENTIAL ISSUE

### Conditions for preferential issue

160. A listed issuer making a preferential issue of specified securities shall ensure that:
- all equity shares allotted by way of preferential issue shall be made fully paid up at the time of the allotment;
  - a special resolution has been passed by its shareholders;
  - all equity shares held by the proposed allottees in the issuer are in dematerialized form;
  - the issuer is in compliance with the conditions for continuous listing of equity shares as specified in the listing agreement with the stock exchange where the equity shares of the issuer are listed and the Securities and Exchange Board of India (Listing Obligations and Disclosure Requirements), 2015, as amended, and any circular or notification issued by the Board thereunder;
  - the issuer has obtained the Permanent Account Numbers of the proposed allottees, except those allottees which may be exempt from specifying their Permanent Account Number for transacting in the securities market by the Board.

### Relevant date

161. For the purpose of this Chapter, "relevant date "means:
- in case of preferential issue of equity shares, the date thirty days prior to the date on which the meeting of shareholders is held to consider the proposed preferential issue:  
**Provided that** in case of a preferential issue of specified securities pursuant to any resolution of stressed assets under a framework specified by the Reserve Bank of India or a resolution plan approved by the National Company Law Tribunal under the Insolvency and Bankruptcy Code 2016, the date of approval of the corporate debt restructuring package or resolution plan shall be the relevant date.
  - in case of a preferential issue of convertible securities, either the relevant date referred to in clause (a) of this regulation or a date thirty days prior to the date on which the holders of the convertible securities become entitled to apply for the equity shares.

**Explanation:** Where the relevant date falls on a weekend or a holiday, the day preceding the weekend or the holiday will be reckoned to be the relevant date

### Tenure of convertible securities

162. The tenure of the convertible securities of the issuer shall not exceed eighteen months from the date of their allotment.



### PART III: DISCLOSURES TO SHAREHOLDERS

163. (1) The issuer shall, in addition to the disclosures required under the Companies Act, 2013 or any other applicable law, disclose the following in the explanatory statement to the notice for the general meeting proposed for passing the special resolution:
- a) objects of the preferential issue;
  - b) maximum number of specified securities to be issued;
  - c) intent of the promoters, directors or key managerial personnel of the issuer to subscribe to the offer;
  - d) shareholding pattern of the issuer before and after the preferential issue;
  - e) time frame within which the preferential issue shall be completed;
  - f) identity of the natural persons who are the ultimate beneficial owners of the shares proposed to be allotted and/or who ultimately control the proposed allottees, the percentage of post preferential issue capital that may be held by them and change in control, if any, in the issuer consequent to the preferential issue:  
  
**Provided that** if there is any listed company, mutual fund, scheduled commercial bank, insurance company registered with the Insurance Regulatory and Development Authority of India in the chain of ownership of the proposed allottee, no further disclosure will be necessary.  
  
**Explanation:** For the purpose of identification of the ultimate beneficial owners of the allottees, where the allottees are institutions/entities, the identification of such ultimate beneficial owners, shall be in accordance with the guidelines prescribed by the Board, if any.
  - g) undertaking that the issuer shall re-compute the price of the specified securities in terms of the provision of these regulations where it is required to do so;
  - h) undertaking that if the amount payable on account of the re-computation of price is not paid within the time stipulated in these regulations, the specified securities shall continue to be locked-in till the time such amount is paid by the allottees.
  - i) disclosures specified in **Schedule VI**, if the issuer or any of its promoters or directors is a willful defaulter.
- (2) The issuer shall place a copy of the certificate of its statutory auditors before the general meeting of the shareholders considering the proposed preferential issue, certifying that the issue is being made in accordance with the requirements of these regulations.

- (3) Where the specified securities are issued on a preferential basis for consideration other than cash, the valuation of the assets in consideration for which the equity shares are issued shall be done by an independent valuer, which shall be submitted to the stock exchanges where the equity shares of the issuer are listed:

**Provided that** if the stock exchange(s) is not satisfied with the appropriateness of the valuation, it may get the valuation done by any other valuer and for this purpose it may seek any information, as deemed necessary, from the issuer.

- (4) The special resolution shall specify the relevant date on the basis of which price of the equity shares to be allotted on conversion or exchange of convertible securities shall be calculated.



## PART IV: PRICING

### Pricing of frequently traded shares

- 164.** (1) If the equity shares of the issuer have been listed on a recognised stock exchange for a period of twenty six weeks or more as on the relevant date, the price of the equity shares to be allotted pursuant to the preferential issue shall be not less than higher of the following:
- a) the average of the weekly high and low of the volume weighted average price of the related equity shares quoted on the recognised stock exchange during the twenty six weeks preceding the relevant date; or
  - b) the average of the weekly high and low of the volume weighted average prices of the related equity shares quoted on a recognised stock exchange during the two weeks preceding the relevant date.
- (2) If the equity shares of the issuer have been listed on a recognised stock exchange for a period of less than twenty six weeks as on the relevant date, the price of the equity shares to be allotted pursuant to the preferential issue shall be not less than the higher of the following:
- a) the price at which equity shares were issued by the issuer in its initial public offer or the value per share arrived at in a scheme of compromise, arrangement and amalgamation under sections 391 to 394 of the Companies Act, 1956 or sections 230 to 234 the Companies Act, 2013, as applicable, pursuant to which the equity shares of the issuer were listed, as the case may be; or
  - b) the average of the weekly high and low of the volume weighted average prices of the related equity shares quoted on the recognised stock exchange during the period the equity shares have been listed preceding the relevant date; or

- c) the average of the weekly high and low of the volume weighted average prices of the related equity shares quoted on a recognised stock exchange during the two weeks preceding the relevant date.
- (3) Where the price of the equity shares is determined in terms of sub-regulation (2), such price shall be recomputed by the issuer on completion of twenty six weeks from the date of listing on a recognised stock exchange with reference to the average of the weekly high and low of the volume weighted average prices of the related equity shares quoted on the recognised stock exchange during these twenty six weeks and if such recomputed price is higher than the price paid on allotment, the difference shall be paid by the allottees to the issuer.
- (4) A preferential issue of specified securities to qualified institutional buyers, not exceeding five in number, shall be made at a price not less than the average of the weekly high and low of the volume weighted average prices of the related equity shares quoted on a recognised stock exchange during the two weeks preceding the relevant date.
- (5) For the purpose of this Chapter, “frequently traded shares” means the shares of the issuer, in which the traded turnover on any recognised stock exchange during the twelve calendar months preceding the relevant date, is at least ten per cent of the total number of shares of such class of shares of the issuer:

**Provided that** where the share capital of a particular class of shares of the issuer is not identical throughout such period, the weighted average number of total shares of such class of the issuer shall represent the total number of shares.

**Explanation:** For the purpose of this regulation, ‘stock exchange’ means any of the recognised stock exchange(s) in which the equity shares of the issuer are listed and in which the highest trading volume in respect of the equity shares of the issuer has been recorded during the preceding twenty six weeks prior to the relevant date.

#### **[Pricing in preferential issue of shares of companies having stressed assets**

- 164A.** (1) In case of frequently traded shares, the price of the equity shares to be allotted pursuant to the preferential issue shall not be less than the average of the weekly high and low of the volume weighted average price of the related equity shares quoted on a recognised stock exchange during the two weeks preceding the relevant date.
- (2) No allotment of equity shares shall be made unless the issuer company meets any two of the following criteria:
- a) the issuer has disclosed all the defaults relating to the payment of interest/ repayment of principal amount on loans from banks / financial institutions/ Systemically Important Non-Deposit taking Non-banking financial companies/ Deposit taking Non-banking financial companies and /or listed or unlisted debt

- securities in terms of SEBI Circular dated November 21, 2019 and such payment default is continuing for a period of at least 90 calendar days after the occurrence of such default;
- b) there is an Inter-creditor agreement in terms of Reserve Bank of India (Prudential Framework for Resolution of Stressed Assets) Directions 2019 dated June 07, 2019;
  - c) the credit rating of the financial instruments (listed or unlisted), credit instruments / borrowings (listed or unlisted) of the listed company has been downgraded to "D".
- (3) The issuer company making the preferential issue shall ensure compliance with the following conditions:
- a) The preference issue shall be made to a person not part of the promoter or promoter group as on the date of the board meeting to consider the preferential issue. The preference issue shall not be made to the following entities:
    - (i) undischarged insolvent in terms of the Insolvency and Bankruptcy Code, 2016;
    - (ii) 'willful defaulter' as per the guidelines of the Reserve Bank of India issued under the Banking Regulation Act, 1949;
    - (iii) person disqualified to act as a director under the Companies Act, 2013;
    - (iv) a person debarred from trading in securities or accessing the securities market by the Board;  
**Explanation:** The restriction under (iv) shall not apply to the persons or entities mentioned therein who were debarred in the past by the Board and the period of debarment is already over as on the date of the board meeting considering the preferential issue.
    - (v) a person declared as a fugitive economic offender;
    - (vi) a person who has been convicted for any offence punishable with imprisonment-
      - A. For two years or more under any Act specified under the Twelfth Schedule of the Insolvency and Bankruptcy Code, 2016
      - B. For seven years or more under any law for the time being in force:
- Provided** that such restriction shall not be applicable to a person after the expiry of a period two years from the date of his release from imprisonment.

- (vii) A person who has executed a guarantee in favour of a lender of the issuer and such guarantee has been invoked by the lender and remains unpaid in full or part.
- (4) The resolution for the preferential issue and exemption from open offer shall provide for the following:
  - a) The votes cast by the shareholders in the 'public' category in favour of the proposal shall be more than the number of votes cast against it. The proposed allottee(s) in the preferential issue that already hold specified securities shall not be included in the category of 'public' for this purpose:

**Provided** that where the company does not have an identifiable promoter; the resolution shall be deemed to have been passed if the votes cast in favour are not less than three times the number of the votes, if any, cast against it.
- (5) The proceeds of such preferential issue shall not be used for any repayment of loans taken from promoters/ promoter group/ group companies. The proposed use of proceeds shall be disclosed in the explanatory statement sent for the purpose of the shareholder resolution.
- (6) (a) The issuer shall make arrangements for monitoring the use of proceeds of the issue by a public financial institution or by a scheduled commercial bank, which is not a related party to the issuer:
  - (i) The monitoring agency shall submit its report to the issuer in the format specified in terms of Schedule XI (with fields as applicable) on a quarterly basis until at least ninety five percent of the proceeds of the issue have been utilized.
  - (ii) (The board of directors and the management of the issuer shall provide their comments on the findings of the monitoring agency as specified in Schedule XI.
  - (iii) The issuer shall, within forty five days from the end of each quarter, publicly disseminate the report of the monitoring agency by uploading the same on its website as well as submit the same to the stock exchange(s) on which the equity shares of the issuer are listed.
- (b) The proceeds of the issue shall also be monitored by the Audit Committee till utilization of the proceeds.
- (7) The allotment made shall be locked-in for a period of three years from the last date of trading approval.
- (8) The statutory auditor and the audit committee shall certify that all conditions under sub-regulations (1), (2), (3), (4) and (5) of regulation 164A are met at the time of

dispatch of notice for general meeting proposed for passing the special resolution and at the time of allotment.]

#### **[Optional pricing in preferential issue**

- 164B.** (1) In case of frequently traded shares, the price of the equity shares to be allotted pursuant to the preferential issue shall be determined by regulation 164 or regulation 164B, as opted for.
- (2) The price of the equity shares to be allotted pursuant to the preferential issue shall not be less than the higher of the following:
- (a) the average of the weekly high and low of the volume weighted average price of the related equity shares quoted on the recognised stock exchange during the twelve weeks preceding the relevant date; or
  - (b) the average of the weekly high and low of the volume weighted average prices of the related equity shares quoted on a recognised stock exchange during the two weeks preceding the relevant date.
- (3) Specified securities allotted on a preferential basis using the pricing method determined under sub-regulation (2) shall be locked-in for a period of three years.
- (4) The pricing method determined at sub-regulation (2) shall be availed in case of allotment by preferential issue made between July 01, 2020 or from the date of notification of this regulation, whichever is later and December 31, 2020.
- (5) All allotments arising out of the same shareholders' approval shall follow the same pricing method.]

#### **Pricing of infrequently traded shares**

- 165.** Where the shares of an issuer are not frequently traded, the price determined by the issuer shall take into account the valuation parameters including book value, comparable trading multiples, and such other parameters as are customary for valuation of shares of such companies:

**Provided that** the issuer shall submit a certificate stating that the issuer is in compliance of this regulation, obtained from an independent valuer to the stock exchange where the equity shares of the issuer are listed.

#### **Adjustments in pricing - Frequently and Infrequently traded shares**

- 166.** The price determined for a preferential issue in accordance with regulation 164 or regulation 165, shall be subject to appropriate adjustments, if the issuer:
- a) makes an issue of equity shares by way of capitalization of profits or reserves, other than by way of a dividend on shares;

- b) makes an issue of equity shares after completion of a demerger wherein the securities of the resultant demerged entity are listed on a stock exchange;
- c) makes a rights issue of equity shares;
- d) consolidates its outstanding equity shares into a smaller number of shares;
- e) divides its outstanding equity shares including by way of stock split;
- f) re-classifies any of its equity shares into other securities of the issuer;
- g) is involved in such other similar events or circumstances, which in the opinion of the concerned stock exchange, require adjustments.



## PART V: LOCK-IN AND RESTRICTIONS ON TRANSFERABILITY

### Lock-in

167. (1) The specified securities, allotted on a preferential basis to the promoters or promoter group and the equity shares allotted pursuant to exercise of options attached to warrants issued on a preferential basis to the promoters or the promoter group, shall be locked-in for a period of three years from the date of trading approval granted for the specified securities or equity shares allotted pursuant to exercise of the option attached to warrant, as the case maybe:

**Provided that** not more than twenty per cent of the total capital of the issuer shall be locked-in for three years from the date of trading approval:

**Provided further** that equity shares allotted in excess of the twenty per cent shall be locked-in for one year from the date of trading approval pursuant to exercise of options or otherwise, as the case may be.

**Provided further** that in case of convertible securities or warrants which are not listed on stock exchanges, such securities shall be locked in for a period of one year from the date of allotment.

- (2) The specified securities allotted on a preferential basis to persons other than the promoters and promoter group and the equity shares allotted pursuant to exercise of options attached to warrants issued on preferential basis to such persons shall be locked-in for a period of one year from the date of trading approval.

**Provided that** in case of convertible securities or warrants which are not listed on stock exchanges, such securities shall be locked in for a period of one year from the date of allotment.

- (3) Lock-in of the equity shares allotted pursuant to conversion of convertible securities other than warrants, issued on preferential basis shall be reduced to the extent the convertible securities have already been locked-in.

- (4) The equity shares issued on a preferential basis pursuant to any resolution of stressed assets under a framework specified by the Reserve Bank of India or a resolution plan approved by the National Company Law Tribunal under the Insolvency and Bankruptcy Code 2016, shall be locked-in for a period of one year from the trading approval:

**Provided that** the lock-in provision shall not be applicable to the specified securities to the extent to achieve 10% public shareholding.

- (5) If the amount payable by the allottee, in case of re-calculation of price under sub-regulation(3) of regulation 164 is not paid till the expiry of lock-in period, the equity shares shall continue to be locked-in till such amount is paid by the allottee.
- (6) The entire pre-preferential allotment shareholding of the allottees, if any, shall be locked-in from the relevant date up to a period of six months from the date of trading approval:

**Provided that** in case of convertible securities or warrants which are not listed on stock exchanges, the entire pre-preferential allotment shareholding of the allottees, if any, shall be locked-in from the relevant date up to a period of six months from the date of allotment of such securities.

**Explanation 1:** For the purpose of this regulation:

- (I) The expression “total capital of the issuer “means:
- a) equity share capital issued by way of public issue or rights issue including equity shares issued pursuant to conversion of specified securities which are convertible; and
  - b) specified securities issued on a preferential basis to the promoters or the promoters group.
- (II) For the computation of twenty per cent. of the total capital of the issuer, the amount of minimum promoters’ contribution held and locked-in, in the past in terms of Securities and Exchange Board of India (Disclosure and Investor Protection) Guidelines, 2000 or these regulations shall be taken into account.
- (III) The minimum promoters’ contribution shall not be put under fresh lock-in again, even though it is considered for computing the requirement of twenty per cent. of the total capital of the issuer, in case the said minimum promoters’ contribution is free of lock-in at the time of the preferential issue.

**Explanation 2:** For the purposes of this regulation, the date of trading approval shall mean the latest date when trading approval has been granted by all the stock exchanges where the equity shares of the issuer are listed, for specified securities allotted as per the provisions of this Chapter.

### Transferability

168. (1) Subject to the provisions of Securities and Exchange Board of India (Substantial Acquisition of shares and Takeovers) Regulations, 2011, specified securities held by promoters and locked-in in terms of sub-regulation (1) of regulation 167, may be transferred among the promoters or the promoter group or to a new promoter or persons in control of the issuer:

**Provided that** the lock-in on such specified securities shall continue for the remaining period with the transferee.

(2) The specified securities allotted on a preferential basis shall not be transferable by the allottees till the trading approval is granted for such securities by all the recognised stock exchanges where the equity shares of the issuer are listed.



## PART VI: CONSIDERATION AND ALLOTMENT

### Payment of consideration

169. (1) Full consideration of specified securities other than warrants, shall be paid by the allottees at the time of allotment of such specified securities except in case of shares issued for consideration other than cash.

**Provided that** in case of a preferential issue of specified securities pursuant to any resolution of stressed assets under a framework specified by the Reserve Bank of India or a resolution plan approved by the National Company Law Tribunal under the Insolvency and Bankruptcy Code 2016, the consideration may be in terms of such scheme.

(2) In the case of warrants, an amount equivalent to at least twenty five per cent. of the consideration determined in terms of regulation 164 shall be paid against each warrant on the date of allotment of warrants and the balance seventy five per cent. of the consideration shall be paid at the time of allotment of the equity shares pursuant to exercise of options against each such warrant by the warrant holder.

**Provided that** in case the exercise price of the warrants is based on the formula, at least twenty- five per cent. of the consideration amount calculated as per the formula with conversion date being the relevant date shall be paid against each warrant on the date of allotment of warrants and the balance consideration shall be paid at the time of allotment of the equity shares pursuant to exercise of options against each such warrant by the warrant holder.

(3) In case the warrant holder does not exercise the option for equity shares against any of the warrants held by the warrant holder, the consideration paid in respect of such warrant in terms of sub-regulation (2) shall be forfeited by the issuer.

- (4) The issuer shall ensure that the consideration of specified securities, if paid in cash, shall be received from respective allottee's bank account and in the case of joint holders, shall be received from the bank account of the person whose name appears first in the application.
- (5) The issuer shall submit a certificate from the statutory auditors to the stock exchanges where the equity shares of the issue are listed stating that the issuer is in compliance of sub-regulation (4) and the relevant documents thereof are maintained by the issuer as on the date of certification.

### Allotment

170. (1) Allotment pursuant to the special resolution shall be completed within a period of fifteen days from the date of passing of such resolution:

**Provided that** where any application for exemption from the applicability of the Securities and Exchange Board of India (Substantial Acquisition of Shares and Takeovers) Regulations, 2011 or any approval or permission by any regulatory authority or the Central Government for allotment is pending, the period of fifteen days shall be counted from the date of the order on such application or the date of approval or permission, as the case may be:

**Provided further** that where the Board has granted relaxation to the issuer in terms of the Securities and Exchange Board of India (Substantial Acquisition of Shares and Takeovers) Regulations, 2011, the preferential issue of equity shares and compulsorily convertible debt instruments, whether fully or partly, shall be made by it within such time as may be specified by the Board in its order granting the relaxation:

**Provided further** that requirement of allotment within fifteen days shall not apply to allotment of specified securities on preferential basis pursuant to any resolution of stressed assets under a framework specified by the Reserve Bank of India or a resolution plan approved by the National Company Law Tribunal under the Insolvency and Bankruptcy Code 2016.

- (2) If the allotment of the specified securities is not completed within fifteen days from the date of special resolution, a fresh special resolution shall be passed and the relevant date for determining the price of specified securities under this Chapter shall be taken with reference to the date of the latter special resolution.
- (3) Notwithstanding anything contained in this regulation, where a preferential allotment is made that attracts an obligation to make an open offer for shares of the issuer under Securities and Exchange Board of India (Substantial Acquisition of Shares and Takeovers) Regulation, 2011, and there is no offer made under sub-regulation (1) of regulation 20 of the Securities and Exchange Board of India (Substantial Acquisition of Shares and Takeovers) Regulation, 2011, the period of fifteen days shall be considered from the expiry of the period specified in sub-regulation(1) of regulation 20

or date of receipt of all statutory approvals required for the completion of an open offer under the Securities and Exchange Board of India (Substantial Acquisition of Shares and Takeovers) Regulation, 2011:

**Provided that** if an offer is made under sub-regulation (1) of regulation 20 of the Securities and Exchange Board of India (Substantial Acquisition of Shares and Takeovers) Regulation, 2011, the period of fifteen days shall be counted from the expiry of the offer period as defined in the Securities and Exchange Board of India (Substantial Acquisition of Shares and Takeovers) Regulation, 2011:

**Provided further** that the provisions of this sub-regulation shall not apply to an offer made under sub-regulation (1) of regulation 20 of the Securities and Exchange Board of India (Substantial Acquisition of Shares and Takeovers) Regulation, 2011, pursuant to a preferential allotment.”

- (4) Allotment of the specified securities shall be made only in dematerialised form.

**Explanation:** The requirement of allotment in dematerialised form shall also be applicable for the equity shares to be allotted pursuant to exercise of option attached to warrant or conversion of convertible securities.

## CHAPTER VI

### QUALIFIED INSTITUTIONS PLACEMENT

#### Definitions

171. For the purpose of this Chapter:

- a) “eligible securities” include equity shares, non-convertible debt instruments along with warrants and convertible securities other than warrants;
- b) “relevant date “means:
  - i. in case of allotment of equity shares, the date of the meeting in which the board of directors of the issuer or the committee of directors duly authorized by the board of directors of the issuer decides to open the proposed issue;
  - ii. in case of allotment of eligible convertible securities, either the date of the meeting in which the board of directors of the issuer or the committee of directors duly authorised by the board of director s of the issuer decides to open the issue of such convertible securities or the date on which the holders of such convertible securities become entitled to apply for the equity shares.



## PART I: CONDITIONS FOR QUALIFIED INSTITUTIONS PLACEMENT

### Eligibility conditions

172. (1) A listed issuer may make a qualified institutions placement of eligible securities if it satisfies the following conditions:

- a) a special resolution approving the qualified institutions placement has been passed by its shareholders, and the special resolution shall, among other relevant matters, specify that the allotment is proposed to be made through qualified institutions placement and the relevant date referred to in sub-clause (ii) of clause (b) of regulation 171;

**Provided that** no shareholders' resolution will be required in case the qualified institutions placement is through an offer for sale by promoters or promoter group for compliance with minimum public shareholding requirements specified in the Securities Contracts (Regulation) Rules, 1957;

**Provided further** that allotment pursuant to the special resolution referred to in this clause (a) of regulation 172 shall be completed within a period of 365 days from the date of passing of the resolution.

- b) the equity shares of the same class, which are proposed to be allotted through qualified institutions placement or pursuant to conversion or exchange of eligible securities offered through qualified institutions placement, have been listed on a stock exchange for a period of at least one year prior to the date of issuance of notice to its shareholders for convening the meeting to pass the special resolution:

**Provided that** where an issuer, being a transferee company in a scheme of compromise, arrangement and amalgamation sanctioned by a High Court under sections 391-394 of the Companies Act, 1956 or approved by a tribunal or the Central Government under sections 230 to 234 of the Companies Act, 2013, whichever is applicable makes qualified institutions placement, the period for which the equity shares of the same class of the transferor company were listed on a stock exchange having nation-wide trading terminals shall also be considered for the purpose of computation of the period of one year.

**Provided further** that this clause shall not be applicable to an issuer proposing to undertake qualified institutional placement for complying with the minimum public shareholding requirements specified in the Securities Contracts (Regulation) 1957.

**Explanation:** For the purpose of clause (b), “equity shares of the same class” shall mean equity shares which rank paripassu in relation to rights as to dividend, voting or otherwise.

- c) An issuer shall be eligible to make a qualified institutions placement if any of its promoters or directors is not a fugitive economic offender.
- (2) All eligible securities issued through a qualified institutions placement shall be listed on the recognized stock exchange where the equity shares of the issuer are listed.

**Provided that** the issuer shall seek approval under rule 19(7) of the Securities Contracts (Regulation) Rules, 1957, if applicable.

- (3) The issuer shall not make any subsequent qualified institutions placement until the expiry of [two weeks] from the date of the prior qualified institutions placement made pursuant to one or more special resolutions.

#### **Conditions for offer for sale by promoters for compliance with minimum public shareholding requirements specified in the Securities Contracts (Regulation) Rules, 1957**

173. The promoters and members of the promoter group may make an offer for sale of fully paid up equity shares, through a qualified institutions placement, for the purpose of achieving minimum public shareholding in terms of the Securities Contracts (Regulation) Rules, 1957.

**Provided that** the promoters or members of the promoter group shall not make such offer for sale if the promoter or member of the promoter group has purchased or sold any equity shares of the issuer during twelve weeks period prior to the date of the opening of the issue and they shall not purchase or sell any equity shares of the issuer during the twelve weeks period after the date of closure of the issue:

**Provided further** that such promoters or members of the promoter group may, within the twelve week periods provided above, sell equity shares of the issuer held by them through offer for sale through stock exchange mechanism specified by the Board or through an open market sale, in accordance with the conditions specified by the Board from time to time, subject to the condition that there shall be a gap of minimum two weeks between the two successive offer(s).



## **PART II: APPOINTMENT OF LEAD MANAGERS**

174. (1) An issuer shall appoint one or more merchant bankers, which are registered with the Board, as lead manager(s) to the issue.
- (2) At least one lead manager to the issue shall not be an associate (as defined under the Securities and Exchange Board of India (Merchant Bankers) Regulations, 1992) of the issuer and if any of the lead manager is an associate of the issuer, it shall disclose itself as an associate of the issuer and its role shall be limited to marketing of the issue.

- (3) The lead manager(s) shall, while seeking in-principle listing approval for the eligible securities, furnish to each stock exchange on which the same class of equity shares of the issuer are listed, a due diligence certificate stating that the eligible securities are being issued under qualified institutions placement and that the issuer complies with requirements of this Chapter, and also furnish a copy of the preliminary placement document along with any other document required by the stock exchange.

### PART III: PLACEMENT DOCUMENT

175. (1) The lead manager(s) shall exercise due diligence and shall satisfy themselves with all aspects of the Issue including the veracity and adequacy of disclosures in the offer document.
- (2) The qualified institutions placement shall be made on the basis of a placement document which shall contain all material information, including those specified in the Companies Act, 2013, if any, and disclosures as specified in **Schedule VII** shall be made, including as specified therein if the issuer or any of its promoters or directors is a willful defaulter.
  - (3) The preliminary placement document and the placement document shall be serially numbered and copies the same shall be circulated only to select investors.
  - (4) The preliminary placement document and the placement document shall be placed on the websites of the relevant stock exchange(s) and of the issuer with a disclaimer to the effect that it is in connection with a qualified institutions placement and that no offer is being made to the public or to any other category of investors.

### PART IV: PRICING

176. (1) The qualified institutions placement shall be made at a price not less than the average of the weekly high and low of the closing prices of the equity shares of the same class quoted on the stock exchange during the two weeks preceding the relevant date:
- Provided that** the issuer may offer a discount of not more than five per cent on the price so calculated, subject to approval of shareholders as specified in clause (a) of regulation 172 of these regulations, except that no shareholders' approval will be required in case of a qualified institutions placement made through an offer for sale by promoters for compliance with minimum public shareholding requirements specified in the Securities Contracts (Regulation) Rules, 1957.
- (2) Where eligible securities are convertible into or exchangeable with equity shares of the issuer, the issuer shall determine the price of such equity shares allotted pursuant to such conversion or exchange taking the relevant date as disclosed in the special resolution referred to in clause (a) of sub regulation (1) of regulation 172.

- (3) The issuer shall not issue or allot partly paid-up eligible securities:
- Provided that** in case of allotment of non-convertible debt instruments along with warrants, the allottees may pay the full consideration or part thereof payable with respect to warrants at the time of allotment of such warrants:
- Provided further** that on allotment of equity shares on exercise of options attached to warrants, such equity shares shall be fully paid-up.
- (4) The issue price shall be subject to appropriate adjustments, if the issuer:
- makes an issue of equity shares by way of capitalization of profits or reserves, other than by way of a dividend on shares;
  - makes a rights issue of equity shares;
  - consolidates its outstanding equity shares into a smaller number of shares;
  - divides its outstanding equity shares including by way of stock split;
  - re-classifies any of its equity shares in to other securities of the issuer;
  - is involved in such other similar events or circumstances, which in the opinion of the concerned stock exchange, requires adjustments.

**Explanation:** For the purpose of sub-regulation (1), the term “stock exchange” means any of the recognized stock exchanges in which the equity shares of the same class of the issuer are listed and in which the highest trading volume in such equity shares has been recorded during the two weeks immediately preceding the relevant date.



## PART V: TENURE OF CONVERTIBLE SECURITIES

177. The tenure of the convertible or exchangeable eligible securities issued through qualified institutions placement shall not exceed sixty months from the date of allotment.



## PART VI: TRANSFERABILITY

178. The eligible securities allotted under the qualified institutions placement shall not be sold by the allottee for a period of one year from the date of allotment, except on a recognized stock exchange.



## PART VII: APPLICATION AND ALLOTMENT

179. (1) The applicants in qualified institutions placement shall not withdraw or revise downwards their bids after the closure of the issue.

- (2) Allotment of specified securities shall be made subject to the following conditions:
- a) minimum of ten per cent of eligible securities shall be allotted to mutual funds:  
**Provided that** any unsubscribed portion of the said minimum percentage or any part thereof may be allotted to other qualified institutional buyers;
  - b) no allotment shall be made, either directly or indirectly, to any qualified institutional buyer who is a promoter or any person related to the promoters of the issuer:  
**Provided that** a qualified institutional buyer who does not hold any shares in the issuer and who has acquired the said rights in the capacity of a lender shall not be deemed to be a person related to the promoters.  
**Explanation:** For the purpose of this clause, a qualified institutional buyer who has any of the following rights shall be deemed to be a person related to the promoters of the issuer: -
    - a) rights under a shareholder 'agreement or voting agreement entered into with promoters or promoter group;
    - b) veto rights; or
    - c) right to appoint any nominee director on the board of the issuer.
- (3) In a qualified institutions placement of non-convertible debt instrument along with warrants, an investor can subscribe to the combined offering of non-convertible debt instruments with warrants or to the individual securities, that is, either non-convertible debt instruments or warrants.

### Minimum number of allottees

180. (1) The minimum number of allottees for each placement of eligible securities made under this Chapter shall at least be:
- a) two, where the issue size is less than or equal to two hundred and fifty crore rupees;
  - b) five, where the issue size is greater than two hundred and fifty crore rupees:  
**Provided that** no single allottee shall be allotted more than fifty per cent. Of the issue size.
- (2) Qualified institutional buyers belonging to the same group or who are under same control shall be deemed to be a single allottee.  
**Explanation:** For the purpose of sub-regulation (2), the expression "qualified institutional buyers belonging to the same group" shall mean entities where, - (i) any of them controls directly or indirectly, through its subsidiary or holding company, not

less than fifteen per cent. of the voting rights in the other; or (ii) any of them directly or indirectly, by itself, or in combination with other persons exercise control over the others; or (iii) there is a common director, excluding nominee and independent directors amongst the investor, its subsidiary or holding company and any other investor.

## CHAPTER VII



### INITIAL PUBLIC OFFER OF INDIAN DEPOSITORY RECEIPTS APPLICABILITY

#### Applicability

**181.** The provisions of this Chapter shall apply to an issue of Indian Depository Receipts (hereinafter referred to as “IDR”) made in terms of the Companies Act, 2013 and Companies (Registration of Foreign Companies) Rules, 2014.



### PART I: ELIGIBILITY REQUIREMENTS

#### Reference date

**182.** Unless otherwise provided in this Chapter, an issuer making a public issue of IDRs shall satisfy the conditions of this Chapter as on the date of filing draft offer document with the Board and also as on the date of [filing] the offer document with the Registrar of Companies.

#### Eligibility conditions

- 183.** (1) An issuer shall be eligible to make an issue of IDRs only if:
- a) the issuing company is listed in its home country for at least three immediately preceding years;
  - b) the issuer is not prohibited to issue securities by any regulatory body;
  - c) the issuer has a track record of compliance with the securities market regulations in its home country;
  - d) any of its promoters or directors is not a fugitive economic offender.

**Explanation:** For the purpose of this regulation, the term “home country” means the country where the issuer is incorporated and listed.

- (2) The issue shall be subject to the following conditions:
- a) issue size shall not be less than fifty crore rupees;
  - b) at any given time, there shall be only one denomination of IDRs of the issuer.

- c) issuer shall ensure that the underlying equity shares against which IDRs are issued have been or will be listed in its home country before listing of IDRs in stock exchange(s).
  - d) issuer shall ensure that the underlying shares of IDRs shall rank paripassu with the existing shares of the same class.
- (3) The issuer shall ensure that:
- a) it has made an application to one or more stock exchanges to seek an in-principle approval for listing of the IDRs on such stock exchanges and has chosen one of them as the designated stock exchange, in terms of **Schedule XIX**;
  - b) it has entered into an agreement with a depository for dematerialisation of the IDRs proposed to be issued;
  - c) it has made firm arrangements of finance through verifiable means towards seventy-five per cent. of the stated means of finance for the project proposed to be funded from issue proceeds, excluding the amount to be raised through the proposed issue of IDRs or through existing identifiable internal accruals, have been made.
- (4) The amount for general corporate purposes, as mentioned in objects of the issue in the draft offer document and the offer document, shall not exceed twenty-five per cent. of the amount being raised by the issuer.



## **PART II: APPOINTMENT OF LEAD MANAGERS, OTHER INTERMEDIARIES AND COMPLIANCE OFFICER**

- 184.** (1) The issuer shall appoint one or more merchant bankers, which are registered with the Board, as lead manager(s) to the issue and shall also appoint other intermediaries, in consultation with the lead manager and shall enter into an agreement with the lead manager on the lines of format of agreement as specified in **Schedule II**.
- (2) Where the issue is managed by more than one lead manager, the rights, obligations and responsibilities, relating *inter alia* to disclosures, allotment, refund and underwriting obligations, if any, of each lead manager shall be predetermined and be disclosed in the draft offer document and the offer documents as specified in **Schedule I**.
- (3) At least one lead manager to the issue shall not be an associate (as defined under the Securities and Exchange Board of India (Merchant Bankers) Regulations, 1992) of the issuer and if any of the lead manager(s) is an associate of the issuer, it shall disclose itself as an associate of the issuer and its role shall be limited to marketing of the issue.

- (4) The issuer shall appoint a registrar to the issue, registered with the Board, which has connectivity with all the depositories.
- (5) The issuer shall enter into an agreement with an overseas custodian bank and a domestic depository.
- (6) The issuing company shall make arrangements for collection at centres as specified in **Schedule XII**.
- (7) The issuer shall appoint a compliance officer who shall be responsible for monitoring the compliance of the securities laws and for redressal of investors' grievances.



## **PART IV: DISCLOSURES IN AND FILING OF OFFER DOCUMENTS**

### **Disclosures in the draft offer document and offer document**

- 185.** (1) The offer document shall contain all material disclosures which are true, correct and adequate to enable the applicants to take an informed investment decision.
- (2) Without prejudice to the generality of sub-regulation (1), the offer document shall contain:
- a) disclosures specified in the Companies (Registration of Foreign Companies) Rules, 2014; and
  - b) disclosures in the manner as specified in **Part A of Schedule VIII**.
- (3) The lead manager(s) shall exercise due diligence and satisfy themselves about all aspects of the issue including the veracity and adequacy of disclosure in the draft offer document and the offer documents.
- (4) The lead manager(s) shall call upon the issuer, its promoters or directors to fulfill their obligations as disclosed by them in the draft offer document or offer document, as the case may be, and as required in terms of these Regulations.

### **Filing of the draft offer document and offer document**

- 186.** (1) Prior to making an initial public offer, the issuer shall file three copies of the draft offer document with the Board, in accordance with **Schedule IV**, along with fees as specified in **Schedule III**, through the lead manager(s).
- (2) The draft offer document and the offer documents filed with the Board shall also be furnished to the Board in a softcopy.
- (3) The lead manager(s) shall:
- a) submit a certificate confirming that an agreement has been entered into between the issuer and the lead manager(s)

- b) submit a due diligence certificate as per format given in **Part H of Schedule V** to the Board along with the draft offer document;
  - c) certify that all amendments, suggestions or observations made by the Board have been incorporated in the offer document;
  - d) submit a due diligence certificate as per format given in **Part C of Schedule V**, at the time of filing the offer document with the Registrar of the Companies.
  - e) a due diligence certificate as per **Form D of Schedule V**, in the event the issuer has made a disclosure of any material development by issuing a public notice.
- (4) The issuer shall, before filing the offer document with the Registrar of Companies, file with the Board through the lead manager(s), an updated draft offer document highlighting all changes made in the draft offer document.
  - (5) If there are any changes in the draft offer document in relation to the matters specified in **Schedule XVI**, an updated offer document or a fresh draft offer document, as the case may be, shall be filed with the Board along with fees specified in **Schedule III**.
  - (6) Copy of the offer documents shall also be filed with the Board and the stock exchange(s) through the lead manager(s) promptly after [filing] the offer documents with the registrar of companies.

**Draft offer document and offer document to be available to the public**

- 187.** (1) The draft offer document filed with the Board shall be made public for comments, if any, for a period of at least twenty one days from the date of filing, by hosting it on the websites of the Board, stock exchanges where specified securities are proposed to be listed and lead manager(s) associated with the issue.
- (2) The issuer shall, within two days of filing of the draft offer document with the Board, make a public announcement in one English national daily newspaper with wide circulation and one Hindi national daily newspaper with wide circulation, disclosing to the public the fact of filing of the draft offer document with the Board and inviting the public to provide their comments to the Board, the issuer or the lead manager(s) in respect of the disclosures made in the draft offer document.
- (3) The lead manager(s) shall, after expiry of the period stipulated in sub-regulation (1), file with the Board, details of the comments received by them or the issuer from the public, on the draft offer document, during that period and the consequential changes, if any, that are required to be made in the draft offer document.
- (4) The issuer and the lead manager(s) shall ensure that the offer documents are hosted on the websites as required under these regulations and its contents are the same as the versions as filed with the registrar of companies, Board and the stock exchanges, as applicable.

- (5) The lead manager(s) and the stock exchanges shall provide copies of the offer document to the public as and when requested and may charge a reasonable sum for providing a copy of the same.



## PART V - PRICING

### Pricing

- 188.** (1) The issuer may determine the price of the IDRs in consultation with the lead manager(s) or through the book building process, as the case maybe.
- (2) The issuer shall undertake the book building process in a manner specified in **Schedule XIII**.

### Price and price band

- 189.** (1) The issuer may mention a price or a price band in the offer document (in case of a fixed price issue) and a floor price or a price band in the red herring prospectus (in case of a book built issue) and determine the price at a later date before [filing] the prospectus with the Registrar of Companies:
- Provided that** the prospectus [filing] with the Registrar of Companies shall contain only one price or the specific coupon rate, as the case may be.
- (2) The cap on the price band shall be less than or equal to one hundred and twenty per cent of the floor price.
  - (3) The floor price or the final price shall not be less than the face value of the IDRs.
  - (4) Where the issuer opts not to make the disclosure of the floor price or price band in the red herring prospectus, the issuer shall announce the floor price or the price band at least two working days before the opening of the issue in the same newspapers in which the pre-issue advertisement was released or together with the pre-issue advertisement in the format prescribed under **Part A of Schedule X**.
  - (5) The announcement referred to in sub-regulation (4) shall contain relevant financial ratios computed for both upper and lower end of the price band and also a statement drawing attention of the investors to the section titled "basis of issue price" of the offer document.
  - (6) The announcement referred to in sub-regulation (4) and the relevant financial ratios referred to in sub-regulation (5) shall be disclosed on the websites of the stock exchange(s) and shall also be pre-filled in the application forms to be made available on the websites of the stock exchange(s).

### Differential pricing

190. (1) The issuer may offer its IDRs at different prices subject to the following:
- a) Retail individual investors or employees entitled for reservation may be offered specified securities at a price not lower by more than ten percent of the price at which net offer is made to other categories of applicants, excluding anchor investors.  
**Explanation:** For the purpose of this Chapter, “employee” shall mean a person who:
    - i. is a resident of India, and
    - ii. is a permanent and full-time employee or a director, whether whole time or part time, of the issuer or of the holding company or subsidiary company or of the material associate(s) of the issuer, whose financial statements are consolidated with the issuer’s financial statements, working in India and does not include promoters and an immediate relative of the promoter.
  - b) In case the issuer opts for the alternate method of book building in terms of Part D of **Schedule XIII**, the issuer may offer specified securities to its employees at a price not lower by more than ten per cent. of the floor price.
- (2) Discount, if any, shall be expressed in rupee terms in the offer document.

## PART VI: ISSUANCE CONDITIONS AND PROCEDURE

### Issuance conditions

191. (1) The procedure to be followed by each class of applicant shall be mentioned in the offer document.
- (2) The minimum application amount shall be twenty thousand rupees.

### Allocation in the issue

192. (1) The allocation in the issue shall be as follows:
- a) at least fifty per cent. of the issue shall be allotted to qualified institutional buyers on proportionate basis as per illustration given in **Part A of Schedule XIV**;
  - b) the remaining portion of the issue may be allocated among the categories of non-institutional investors and retail individual investors including employees, at the discretion of the issuer and the manner of allocation shall be disclosed in the offer document. Allotment to investors within a category shall be on proportionate basis:

**Provided that** at least thirty per cent of the IDRs being offered in the public issue shall be available for allocation to retail individual investors and in case of under-subscription in retail individual investor category, spill over to other categories to the extent of under subscription may be permitted.

- (2) A person shall not make an application in the net offer category for a number of IDRs which exceeds the total number of IDRs offered to the public.

#### **Abridged prospectus**

193. (1) The abridged prospectus shall contain the disclosures as specified in **Part B of Schedule VIII** and shall not contain any matter extraneous to the contents of the offer document.
- (2) Every application form distributed by the issuer or any other person in relation to an issue shall be accompanied by a copy of the abridged prospectus.

#### **ASBA**

194. The issuer shall accept bids using only the ASBA facility in the manner specified by the Board.

#### **Availability of issue material**

195. The lead manager(s) shall ensure availability of the offer document and other issue material including application forms to stock exchanges, syndicate members, registrar to issue, registrar and share transfer agents, depository participants, stock brokers, underwriters, bankers to the issue, investors' associations and self-certified syndicate banks before the opening of the issue.

#### **Prohibition on payment of incentives**

- 196 Any person connected with the issue shall not offer any incentive, whether direct or indirect, in any manner, whether in cash or kind or services or otherwise to any person for making an application in the initial public offer, except for fees or commission for services rendered in relation to the issue.

#### **Security deposit**

197. (1) The issuer shall, before the opening of subscription list, deposit with the designated stock exchange, an amount calculated at the rate of one per cent. of the issue size available for subscription to the public in the manner specified by Board and/or stock exchange(s).
- (2) The amount specified in sub-regulation (1) shall be refundable or forfeitable in the manner specified by the Board.

## Underwriting

198. (1) If the issuer making an initial public offer of IDRs, other than through the book building process, desires to have the issue underwritten, it shall appoint underwriters in accordance with the Securities and Exchange Board of India (Underwriters) Regulations, 1993.
- (2) If the issuer makes a public issue through the book building process,
- a) The issue shall be underwritten by lead manager(s) and syndicate member(s):
  - b) The issuer shall, prior to filing the prospectus, enter into underwriting agreement with the lead manager(s), and syndicate member(s), indicating therein the number of specified securities which they shall subscribe to at the predetermined price in the event of under- subscription in the issue.
  - c) If the syndicate member(s) fail to fulfill their underwriting obligations, the lead manager(s) shall fulfil such underwriting obligations.
  - d) The lead manager(s) and the syndicate member(s) shall not subscribe to the issue in any manner except for fulfilling their underwriting obligations.
  - e) In case of every underwritten issue, the lead manager(s) shall undertake minimum underwriting obligations as specified in the Securities and Exchange Board of India (Merchant Bankers) Regulations, 1992.
  - f) where the issue is required to be underwritten, the underwriting obligations should at least to the extent of minimum subscription.

## Public communications, publicity materials, advertisements and research reports

199. All public communication, publicity materials, advertisements and research reports shall comply with the provisions of **Schedule IX**, subject to the following:
- a) the applicability of clauses (1) and (7) and Explanation II shall be restricted to any issue advertisements made in India or any research report circulated in India, pertaining to the IDR issue of the issuing company;
  - b) the applicability of clauses (2) and (3) shall be restricted to any public communications and publicity material issued or published in any media in India;
  - c) the applicability of clauses (4) and (5) shall be restricted to any material or information released in India and any issue advertisements and publicity materials issued or published in any media in India;
  - d) the applicability of clause (10) shall be restricted to any product advertisement of the issuer issued or published in any media in India;
  - e) all other provisions of **Schedule IX** shall be applicable.

**Issue-related advertisements**

- 200.** (1) The issuer may release advertisements for issue opening and issue closing, which shall be in the formats specified in **Parts B and C of Schedule X**.
- (2) During the period the issue is open for subscription, no advertisement shall be released giving an impression that the issue has been fully subscribed or oversubscribed or indicating investors' response to the issue.
- (3) An announcement regarding closure of the issue shall be made only after the lead manager(s) is satisfied that at least ninety per cent. of the issue has been subscribed and a certificate has been obtained to that effect from the registrar to the issue:

**Provided that** such an announcement shall not be made before the date on which the issue is to be closed except for issue closing advertisement made in the format prescribed in these regulations.

**Opening of the issue**

- 201.** (1) Subject to the compliance with the provisions of the Companies Act, 2013, a public issue may be opened:
- a) within twelve months from the date of issuance of the observations by the Board under regulation 6; or
- (2) an issue shall be opened after at least three working days from the date of [filing] the prospectus with the Registrar of Companies.

**Minimum subscription**

- 202.** (1) The minimum subscription to be received in the issue shall be at least ninety per cent. of the offer through the offer document.
- (2) For non-underwritten issues:
- a) If the issuer does not receive the minimum subscription of ninety per cent. of the offer through offer document on the date of closure of the issue, or if the subscription level falls below ninety per cent. after the closure of issue, the issuer shall forthwith refund through verifiable means the entire subscription amount received.
- b) If the issuer fails to refund the entire subscription amount within fifteen days from the date of the closure of the issue, it is liable to pay the amount with interest to the subscribers at the rate of fifteen per cent. per annum for the period of delay.

- (3) For underwritten issues:
  - a) If the issuer does not receive the minimum subscription of ninety per cent. of the offer through offer document including devolvement of underwriters, all application monies received shall be refunded through verifiable means to the applicants forthwith, but not later than fifteen days from the closure of the issue.
  - b) If the issuer fails to refund the entire subscription amount within fifteen days from the date of the closure of the issue, it is liable to pay the amount with interest to the subscribers at the rate of fifteen per cent. per annum for the period of delay.
- (4) In case of an undersubscribed issue that is underwritten, the lead manager(s) shall furnish information to the Board in respect of underwriters who have failed to meet their underwriting devolvement in the format specified in **Schedule XVIII**.

#### **Period of subscription**

- 203.** (1) Except as otherwise provided in these regulations, an initial public offer of IDRs shall be kept open for at least three working days and not more than ten working days.
- (2) In case of a revision in the price band, the issuer shall extend the bidding (issue) period disclosed in the red herring prospectus, for a minimum period of three working days, subject to the provisions of sub-regulation(1).
- (3) In case of force majeure, banking strike or similar circumstances, the issuer may, for reasons to be recorded in writing, extend the bidding (issue) period disclosed in the red herring prospectus (in case of a book built issue) or the issue period disclosed in the prospectus (in case of a fixed price issue), for a minimum period of three working days, subject to the provisions of sub-regulation(1).

#### **Allotment procedure and basis of allotment**

- 204.** (1) The issuer shall not make any allotment in excess of the specified securities offered through the offer document except in case of oversubscription for the purpose of rounding off to make allotment, in consultation with the designated stock exchange.
- Provided that** in case of oversubscription, an allotment of not more than one per cent of the net offer to public may be made for the purpose of making allotment in minimum lots.
- (2) The allotment of specified securities to applicants other than retail individual investors shall be on proportionate basis within the respective investor categories and the number of securities allotted shall be rounded off to the nearest integer, subject to minimum allotment being equal to the minimum application size as determined and disclosed in the offer document:

**Provided** that value of specified securities allotted to retail individual investors shall not exceed two lakhs rupees.

- (3) The allotment of specified securities to each retail individual investor shall not be less than the minimum bid lot, subject to availability of shares in retail individual investor category, and the remaining available shares, if any, shall be allotted on a proportionate basis.
- (4) The authorised employees of the designated stock exchange, along with the lead manager(s) and registrars to the issue, shall ensure that the basis of allotment is finalised in a fair and proper manner in accordance with the allotment procedure as specified in **Part A of Schedule XIV**.

#### **Allotment, refund and payment of interest**

- 205.** (1) The issuer shall ensure that the letters of allotment for the IDRs are issued simultaneously to all allottees and that in the event of it being impossible to issue letters of regret at the same time, a notice to that effect shall be issued in the media so that it appears on the morning after the letters of allotment have been despatched.
- (2) The issuer and lead manager(s) shall ensure that the IDRs are allotted and/or application monies are refunded or unblocked within such period as may be specified by the Board.
- (3) The lead manager(s) shall ensure that the allotment, credit of dematerialised securities, refunding or unlocking of application monies, as may be applicable, are done electronically.
- (4) Where the specified securities are not allotted and/or application monies are not refunded or unblocked within the period stipulated in sub-regulation (1) above, the issuer shall undertake to pay interest at the rate of fifteen per cent per annum to the investors and within such time as disclosed in the offer document and the lead manager(s) shall ensure the same.

#### **Post-issue advertisements**

- 206.** (1) The lead manager(s) shall ensure that advertisement giving details relating to subscription, basis of allotment, number, value and percentage of all applications including ASBA, number, value and percentage of successful allottees for all applications including ASBA, date of completion of despatch of refund orders, as applicable, or instructions to self-certified syndicate banks by the registrar, date of credit of the IDRs and date of filing of listing application, etc. is released within ten days from the date of completion of the various activities in at least one English national daily newspaper with wide circulation, one Hindi national daily newspaper with wide circulation.

- (2) Details specified in sub regulation (1) shall also be placed on the websites of the stock exchanges where the securities are listed.

#### **Post-issue responsibilities of the lead manager(s)**

- 207.** (1) The responsibility of the lead manager(s) shall continue until completion of the issue process and for any issue related matter thereafter.
- (2) The lead manager(s) shall regularly monitor redressal of investor grievances arising from any issue related activities.
  - (3) The lead manager(s) shall continue to be responsible for post-issue activities till the applicants have received the credit of IDRs to their account or refund of application monies and the listing agreement is entered into by the issuer with the stock exchange and listing or trading permission is obtained.
  - (4) The lead manager(s) shall be responsible for and co-ordinate with the registrars to the issue and with various intermediaries at regular intervals after the closure of the issue to monitor the flow of applications from syndicate member(s) or collecting bank branches and/ or self-certified syndicate banks processing of the applications including application form for ASBA and other matters till the basis of allotment is finalised, credit of the specified securities to the demat accounts of the allottees and unblocking of ASBA accounts/ despatch of refund orders are completed and securities are listed, as applicable.
  - (5) Any act of omission or commission on the part of any of the intermediaries noticed by the lead manager(s) shall be duly reported by them to the Board.
  - (6) In case there is a devolvement on the underwriters, the lead manager(s) shall ensure that the notice for devolvement containing the obligation of the underwriters is issued within ten days from the date of closure of the issue.
  - (7) In case of undersubscribed issues that are underwritten, the lead manager(s) shall furnish information to the Board in respect of underwriters who have failed to meet their underwriting devolvement in the format specified in **Schedule XVIII**.

#### **Release of subscription money**

- 208.** (1) The lead manager(s) shall confirm to the bankers to the issue by way of copies of listing and trading approvals that all formalities in connection with the issue have been completed and that the banker is free to release the money to the issuer or release the money for refund in case of failure of the issue.
- (2) In case the issuer fails to obtain listing or trading permission from the stock exchanges where the specified securities were listed, it shall refund through verifiable means the entire monies received within seven days of receipt of intimation from stock exchanges rejecting the application for listing of IDRs, if any such money is not repaid within eight days after

the issuer becomes liable to repay it the issuer and every director of the company who is an officer in default shall, on and from the expiry of the eighth day, be jointly and severally liable to repay that money with interest at the rate of fifteen per cent per annum.

- (3) The lead manager(s) shall ensure that the monies received in respect of the issue are released to the issuer in compliance with the provisions of the Section 40 (3) of the Companies Act, 2013, as applicable.

### Reporting of transactions by the promoters and promoter group

209. (1) The issuer shall ensure that transactions in securities by the promoters and promoter group during the period between the date of filing of the draft offer document or offer document, as the case may be, and the date of closure of the issue shall be reported to the stock exchange(s) within twenty four hours of such transactions.

### Post-issue reports

210. The lead manager(s) shall submit a final post-issue report on the lines of **Parts A of Schedule XVII**, along with a due diligence certificate as per the format specified in **Form F of Schedule V**, within seven days of the date of finalisation of basis of allotment or within seven days of refund of money in case of failure of issue.

### Fungibility

211. The IDRs shall be fungible into the underlying equity shares of the issuer in the manner specified by the Board and Reserve Bank of India, from time to time.

## CHAPTER VIII



## RIGHTS ISSUE OF INDIAN DEPOSITORY RECEIPTS

### Applicability

212. In addition to compliance with Chapter VII, wherever applicable, a listed issuer offering IDRs through a rights issue shall satisfy the conditions specified in this Chapter at the time of filing the offer document:

**Provided that** the provisions of the following regulations shall not be applicable in case of rights issue of IDRs:

- a) regulation 191
- b) sub-regulation (1) of regulation 192
- c) clause (a) of sub regulation (2) of regulation 183
- d) regulation 205; and
- e) sub-regulation (2) of regulation 185.

**Entities not eligible to make a rights issue**

- 213.** An issuer shall not be eligible to make a rights issue of IDRs if–
- a) at the time of undertaking the rights issue, the issuer is in breach of ongoing material obligations under the listing agreement and the Securities and Exchange Board of India (Listing Obligations and Disclosure Requirements) Regulations, 2015 as may be applicable to such issuer or material obligations under the deposit agreement entered into between the domestic depository and the issuer at the time of initial offering of IDRs;
  - b) any of its promoters or directors is a fugitive economic offender.

**General conditions**

- 214.** The issuer shall ensure that it has made an application to all the stock exchanges in India, where its IDRs are already listed, for listing of the IDRs to be issued by way of rights and has chosen one of them as the designated stock exchange, in terms of **Schedule XIX**.

**Renunciation by an IDR holder**

- 215.** Unless the laws of the home jurisdiction of the issuer otherwise provide, the rights issue shall be deemed to include a right exercisable by the person concerned to renounce the IDRs offered to the IDR holder in favour of any other person subject to applicable laws and the same shall be disclosed in the offer document.

**Depository**

- 216.** The domestic depository shall, in accordance with the depository agreement executed with the issuer at the time of initial offering of IDR, take such steps as are necessary to enable the IDR holders to have entitlements under the rights offering and issue additional IDRs to such IDR holders, distribute the rights to the IDR holders or renounees or arrange for the IDR holders or renounees to subscribe for any additional rights which are available due to lack of take-up by other holders of underlying shares.

**Record date**

- 217.** (1) An issuer making a rights issue of IDRs shall, in accordance with the provisions of the Securities and Exchange Board of India (Listing Obligations and Disclosure Requirements) Regulations, 2015, the issuer shall announce a record date for the purpose of determining the shareholders eligible to apply for IDRs in the proposed rights issue.
- (2) If the issuer withdraws the rights issue after announcing the record date, it shall notify the Board about the same and shall notify the same in one English national daily newspaper with wide circulation, one Hindi national daily newspaper with wide circulation and one regional language daily newspaper with wide circulation at the place where principal office of the issuer is situated in India. If the issuer withdraws the rights issue

after announcing the record date, it shall not make an application for offering of IDRs on a rights basis for a period of twelve months from the said record date.

#### **Disclosures in the offer document and the addendum**

- 218.** (1) The offer document for the rights offering shall contain disclosures as required under the home country regulations of the issuer.
- (2) An additional wrap (addendum to offer document) shall be attached to the offer document to be circulated in India containing information as specified in **Part C of Schedule VIII** and other instructions as to the procedures and process to be followed with respect to rights issue of IDRs in India.
- (3) Without prejudice to the generality of sub-regulations (1) and (2), the offer document and the addendum attached with it, shall contain all material information, which are true, correct and adequate, so as to enable the applicants to take an informed investment decision.

#### **Appointment of lead managers and compliance officer**

- 219.** (1) The issuer shall appoint one or more merchant bankers, which are registered with the Board, as a lead manager(s) to the issue and shall also appoint other intermediaries, in consultation with the lead manager, to carry out the obligations relating to the issue.
- (2) The issuer shall ensure that the compliance officer, in charge of ensuring compliance with the obligations under this Chapter, functions from within the territorial limits of India.

#### **Filing of draft offer document and the addendum for rights offering**

- 220.** (1) The issuer shall, through the lead manager(s), file the draft offer document prepared in accordance with the home country requirements along with an addendum containing disclosures as specified in **Part C of Schedule VIII** with the Board, as a confidential filing accompanied with fees as specified in **Schedule III**.
- (2) The Board may specify changes or issue observations on the draft offer document and the addendum within thirty days from the later of the following dates:
- a) the date of receipt of the draft offer document prepared in accordance with the home country requirements along with an addendum under sub-regulation (2); or
  - b) the date of receipt of satisfactory reply from the lead manager(s), where the Board has sought any clarification or additional information from them; or
  - c) the date of receipt of clarification or information from any regulator or agency, where the Board has sought any clarification or information from such regulator or agency; or

- d) the date of receipt of a copy of in-principle approval letter issued by the stock exchanges.
- (3) If the Board specifies any changes or issues observations on the draft offer document and the addendum under sub-regulation (3), the issuer and the lead manager(s) shall file the revised draft offer document and the updated addendum after incorporating the changes specified by the Board.
- (4) The issuer shall also submit an undertaking from the overseas custodian and domestic depository addressed to the issuer, to comply with their obligations with respect to the said rights issue under their respective agreements entered into between them, along with the offer document.

### Pricing

221. The issue price and the ratio shall be decided simultaneously with record date in accordance with the home country regulations.

### Availability of Issue Material

222. (1) The abridged letter of offer, containing disclosures as specified in Part B of **Schedule IX**, for a rights offering, along with application form, shall be dispatched through registered post or speed post or by courier service or by electronic mode to all the eligible IDR holders at least three days before the date of opening of the issue and shall be made available on the website of the issuer with appropriate access restrictions at the same time it is made available to the holders of its equity shares.

**Provided that** a hard copy of the offer document for a rights offering along with the addendum shall be made available at the principal office of the issuer or lead manager to any existing IDR holder who has made a request in this regard.

- (2) The eligible IDR holders who have not received the application form may apply in writing on a plain paper to the domestic depository, along with the requisite application money within the time frame for acceptance.
- (3) The eligible IDR holders making an application otherwise than on the application form shall not renounce their rights and shall not utilise the application form for any purpose including renunciation even if it is received subsequently.
- (4) Where any eligible IDR holder makes an application on an application form as well as on plain paper, such application is liable to be rejected.

### Issue-related advertisement

223. (1) The issuer shall issue an advertisement for the rights issue disclosing the following:
- a) the date of completion of despatch of the abridged letter of offer and the application form;

- b) the centres other than principal office of the issuer in India where the eligible IDR holders may obtain duplicate copies of the application forms in case they do not receive the application form within a reasonable time after opening of the rights issue;
  - c) a statement that if the eligible IDR holders have neither received the original application forms nor they are in a position to obtain the duplicate forms, they may make application in writing on a plain paper to subscribe to the rights issue;
  - d) a format to enable the eligible IDR holders, to make the application on a plain paper specifying therein necessary particulars such as name, address, ratio of rights issue, issue price, number of IDRs held, ledger folio numbers, depository participant ID, client ID, number of IDRs entitled and applied for, amount to be paid along with application, and particulars of cheque, etc. to be drawn in favour of the issuer's account;
  - e) a statement that the applications can be directly sent by the eligible IDR holders through registered post together with the application monies to the issuer's designated official at the address given in the advertisement;
  - f) a statement to the effect that if the eligible IDR holder makes an application on plain paper and also on application form both the applications shall be liable to be rejected at the option of the issuer.
- (2) The advertisement shall be made in at least one English national daily newspaper with wide circulation, one Hindi national daily newspaper with wide circulation and one regional language daily newspaper with wide circulation at the place where principal office of the issuer is situated in India at least three days before the date of opening of the issue.

#### **Period of subscription and issue of allotment letter**

- 224.** (1) A rights issue shall be open for subscription in India for a period as applicable under the laws of its home country but in no case less than tendays.
- (2) The issuing company shall ensure that it sends the allotment letter of rights to IDR holders at the time these are sent to shareholders of the issuing company as per the requirement of its home country or other jurisdictions where its securities are listed.

#### **Utilisation of funds**

- 225.** The issuer shall utilise funds raised in relation to the IDRs pursuant to the rights offering only upon completion of the allotment process.

#### **Fast track issue**

- 226.** (1) Nothing contained in sub-regulations (1) of regulation 221, (1), (2) and (3) of regulation 222 shall apply, if the issuer satisfies the following conditions:

- a) the issuer is in compliance in all material respects with the provisions of deposit agreement and the provisions of listing agreements (or listing conditions) applicable in all the jurisdictions wherever the issuer is listed, for a period of at least three years immediately preceding the date of filing of the offer document, and a certification to this effect is provided by the issuer;
  - b) the offer document for the rights offering of the securities of the issuer has been filed and reviewed by the securities regulator in the home country of the issuer;
  - c) there are no pending show-cause notices or prosecution proceedings against the issuer or its promoters, where applicable, or whole time directors on the reference date by the Board or the regulatory authorities in its home country restricting them from accessing the capital markets; and
  - d) the issuer has redressed at least ninety-five per cent. of the complaints received from the IDR holders before the end of the three months period immediately preceding the month of date of filing the letter of offer with the designated stock exchange.
- (2) Where the conditions in sub-regulation (1) are satisfied, the issuer may opt for rights issue of IDRs by filing a copy of the offer document prepared in accordance with the home country requirements along with an addendum containing disclosures as specified in **Part C of Schedule VIII** with the Board for record purposes, before filing the same with the stock exchanges.

## CHAPTER IX



### INITIAL PUBLIC OFFER BY SMALL AND MEDIUM ENTERPRISES

#### Reference date

**227.** Unless otherwise provided in this Chapter, an issuer making an initial public offer of specified securities shall satisfy the conditions of this Chapter as on the date of filing of the draft offer document with the SME exchange and also as on the date of [filing] the offer document with the Registrar of Companies.



### PART I: ELIGIBILITY REQUIREMENTS

#### Entities not eligible to make an initial public offer

**228.** An issuer shall not be eligible to make an initial public offer:

- a) if the issuer, any of its promoters, promoter group or directors or selling shareholders are debarred from accessing the capital market by the Board;

- b) if any of the promoters or directors of the issuer is a promoter or director of any other company which is debarred from accessing the capital market by the Board;
- c) if the issuer or any of its promoters or directors is a willful defaulter.
- d) if any of its promoters or directors is a fugitive economic offender.

**Explanation:** The restrictions under clauses (a) and (b) shall not apply to the persons or entities mentioned therein, who were debarred in the past by the Board and the period of debarment is already over as on the date of filing of the draft offer document with the SME Exchange.

### Eligibility requirements for an initial public offer

- 229.** (1) An issuer shall be eligible to make an initial public offer only if its post-issue paid-up capital is less than or equal to ten crore rupees.
- (2) An issuer, whose post issue face value capital is more than ten crore rupees and up to twenty-five crore rupees, may also issue specified securities in accordance with provisions of this Chapter.
- (3) An issuer may make an initial public offer, if it satisfies track record and/or other eligibility conditions of the SME Exchange(s) on which the specified securities are proposed to be listed.

**Provided that** In case of an issuer which had been a partnership firm or a limited liability partnership, the track record of operating profit of the partnership firm or the limited liability partnership shall be considered only if the financial statements of the partnership business for the period during which the issuer was a partnership firm or a limited liability partnership, conform to and are revised in the format prescribed for companies under the Companies Act, 2013 and also comply with the following:

- a) adequate disclosures are made in the financial statements as required to be made by the issuer as per **Schedule III** of the Companies Act, 2013;
- b) the financial statements are duly certified by auditors, who have subjected themselves to the peer review process of the Institute of Chartered Accountants of India (ICAI) and hold a valid certificate issued by the Peer Review Board' of the ICAI, stating that: (i) the accounts and the disclosures made are in accordance with the provisions of **Schedule III** of the Companies Act, 2013; (ii) the accounting standards prescribed under the Companies Act, 2013 have been followed; (iii) the financial statements present a true and fair view of the firm's accounts;

**Provided further** that in case of an issuer formed out of merger or a division of an existing company, the track record of the resulting issuer shall be considered only if the requirements regarding financial statements as specified above in the first proviso are complied with.

**General conditions**

230. (1) An issuer making an initial public offer shall ensure that:
- a) it has made an application to one or more SME exchanges for listing of its specified securities on such SME exchange(s) and has chosen one of them as the designated stock exchange, in terms of Schedule XIX;
  - b) it has entered into an agreement with a depository for dematerialisation of its specified securities already issued and proposed to be issued;
  - c) all its existing partly paid-up equity shares have either been fully paid-up or forfeited;
  - d) all specified securities held by the promoters are in the dematerialized form;
  - e) it has made firm arrangements of finance through verifiable means towards seventy-five per cent. of the stated means of finance for the project proposed to be funded from the issue proceeds, excluding the amount to be raised through the proposed public offer or through existing identifiable internal accruals.

**Explanation:** “project” means the object for which monies are proposed to be raised to cover the objects of the issue

- (2) The amount for general corporate purposes, as mentioned in objects of the issue in the draft offer document and the offer document shall not exceed twenty-five per cent. of the amount being raised by the issuer.

**PART II: ISSUE OF CONVERTIBLE DEBT INSTRUMENTS AND WARRANTS**

231. An issuer shall be eligible to make an initial public offer of convertible debt instruments even without making a prior public issue of its equity shares and listing thereof.

**Provided that** an issuer shall not be eligible if it is in default of payment of interest or repayment of principal amount in respect of debt instruments issued by it to the public, if any, for a period of more than six months.

**Additional requirements for issue of convertible debt instruments**

232. (1) In addition to other requirements laid down in these regulations, an issuer making an initial public offer of convertible debt instruments shall also comply with the following conditions:
- a) it has obtained credit rating from at least one credit rating agency;

- b) it has appointed at least one debenture trustees in accordance with the provisions of the Companies Act, 2013 and the Securities and Exchange Board of India (Debenture Trustees) Regulations, 1993;
  - c) it shall create a debenture redemption reserve in accordance with the provisions of the Companies Act, 2013 and the rules made there under.
  - d) if the issuer proposes to create a charge or security on its assets in respect of secured convertible debt instruments, it shall ensure that:
    - i) such assets are sufficient to discharge the principal amount at all times.
    - ii) such assets are free from any encumbrance.
    - iii) where security is already created on such assets in favour of any existing lender or security trustee or the issue of convertible debt instruments is proposed to be secured by creation of security on a leasehold land, the consent of such lender or security trustee or lessor for a second or paripassu charge has been obtained and submitted to the debenture trustee before the opening of the issue;
    - iv) the security or asset cover shall be arrived at after reduction of the liabilities having a first or prior charge, in case the convertible debt instruments are secured by a second or subsequent charge.
- (2) The issuer shall redeem the convertible debt instruments as stipulated in the offer document.

### **Conversion of optionally convertible debt instruments into equity share capital**

- 233.** (1) The issuer shall not convert its optionally convertible debt instruments into equity shares unless the holders of such convertible debt instruments have sent their positive consent to the issuer and non-receipt of reply to any notice sent by the issuer for this purpose shall not be construed as consent for conversion of any convertible debt instruments.
- (2) Where the value of the convertible portion of any listed convertible debt instruments issued by a issuer exceeds fifty lakh rupees and the issuer has not determined the conversion price of such convertible debt instruments at the time of making the issue, the holders of such convertible debt instruments shall be given the option of not converting the convertible portion into equity shares:

**Provided that** where the upper limit on the price of such convertible debt instruments and justification thereon is determined and disclosed to the investors at the time of making the issue, it shall not be necessary to give such option to the holders of the convertible debt instruments for converting the convertible portion into equity share capital within the said upper limit.

- (3) Where an option is to be given to the holders of the convertible debt instruments in terms of sub-regulation (2) and if one or more of such holders do not exercise the option to convert the instruments into equity share capital at a price determined in the general meeting of the Shareholders, the issuer shall redeem that part of the instruments within one month from the last date by which option is to be exercised, at a price which shall not be less than its face value.
- (4) The provision of sub-regulation (3) shall not apply if such redemption is in terms of the disclosures made in the offer document.

#### **Issue of convertible debt instruments for financing**

**234.** An issuer shall not issue convertible debt instruments for financing or for providing loans to or for acquiring shares of any person who is part of the promoter group or group companies;

**Provided that** an issuer shall be eligible to issue fully convertible debt instruments for these purposes if the period of conversion of such debt instruments is less than eighteen months from the date of issue of such debt instruments.

#### **Issue of warrants**

**235.** An issuer shall be eligible to issue warrants in an initial public offer subject to the following:

- a) the tenure of such warrants shall not exceed eighteen months from their date of allotment in the initial public offer;
- b) A specified security may have one or more warrants attached to it;
- c) the price or formula for determination of exercise price of the warrants shall be determined upfront and disclosed in the offer document and at least twenty-five per cent. of the consideration amount based on the exercise price shall also be received upfront;

**Provided that** in case the exercise price of warrants is based on a formula, twenty-five per cent consideration amount based on the cap price of the price band determined for the linked equity shares or convertible securities shall be received upfront.;

- d) in case the warrant holder does not exercise the option to take equity shares against any of the warrants held by the warrant holder, within three months from the date of payment of consideration, such consideration made in respect of such warrants shall be forfeited by the issuer.



## **PART III: PROMOTERS' CONTRIBUTION**

#### **Minimum promoters' contribution**

**236.** (1) The promoters of the issuer shall hold at least twenty per cent. of the post-issue capital:

**Provided that** in case the post-issue shareholding of the promoters is less than twenty per cent., alternative investment funds or foreign venture capital investors or scheduled commercial banks or public financial institutions or insurance companies registered with Insurance Regulatory and Development Authority of India may contribute to meet the shortfall in minimum contribution as specified for the promoters, subject to a maximum of ten per cent. of the post-issue capital without being identified as promoter(s);

**Provided further** that the requirement of minimum promoters' contribution shall not apply in case an issuer does not have any identifiable promoter.

- (2) The minimum promoters' contribution shall be as follows:
- a) the promoters shall contribute twenty per cent. as stipulated sub-regulation (1), as the case may be, either by way of equity shares or by way of subscription to the convertible securities:

**Provided that** if the price of the equity shares allotted pursuant to conversion is not pre-determined and not disclosed in the offer document, the promoters shall contribute only by way of subscription to the convertible securities being issued in the public offer and shall undertake in writing to subscribe to the equity shares pursuant to conversion of such securities.

- b) in case of any issue of convertible securities which are convertible or exchangeable on different dates and if the promoters' contribution is by way of equity shares (conversion price being pre-determined), such contribution shall not be at a price lower than the weighted average price of the equity share capital arising out of conversion of such securities.
- c) subject to the provisions of clause (a) and (b) above, in case of an initial public offer of convertible debt instruments without a prior public issue of equity shares, the promoters shall bring in a contribution of at least twenty per cent. of the project cost in the form of equity shares, subject to contributing at least twenty per cent. of the issue size from its own funds in the form of equity shares:

**Provided that** if the project is to be implemented in stages, the promoters' contribution shall be with respect to total equity participation till the respective stage vis-à-vis the debt raised or proposed to be raised through the public offer.

- d) The promoters shall satisfy the requirements of this regulation at least one day prior to the date of opening of the issue.
- e) In case the promoters have to subscribe to equity shares or convertible securities towards minimum promoters' contribution, the amount of promoters' contribution shall be kept in an escrow account with a scheduled commercial

bank, which shall be released to the issuer along with the release of the issue proceeds:

**Provided that** where the promoters' contribution has already been brought in and utilised, the issuer shall give the cash flow statement disclosing the use of such funds in the offer document;

**Explanation:** For the purpose of this regulation:

- (I) Promoters' contribution shall be computed on the basis of the post-issue expanded capital:
  - a) assuming full proposed conversion of convertible securities into equity shares;
  - b) assuming exercise of all vested options, where any employee stock options are outstanding at the time of initial public offer.
- (II) For computation of "weighted average price":
  - a) "weights" means the number of equity shares arising out of conversion of such specified securities into equity shares at various stages;
  - b) "price" means the price of equity shares on conversion arrived at after taking into account predetermined conversion price at various stages.

### **Securities ineligible for minimum promoters' contribution**

- 237.** (1) For the computation of minimum promoters' contribution, the following specified securities shall not be eligible:
- a) specified securities acquired during the preceding three years, if they are:
    - i acquired for consideration other than cash and revaluation of assets or capitalisation of intangible assets is involved in such transaction; or
    - ii resulting from a bonus issue by utilisation of revaluation reserves or unrealised profits of the issuer or from bonus issue against equity shares which are ineligible for minimum promoters' contribution;
  - b) specified securities acquired by the promoters and alternative investment funds or foreign venture capital investors or scheduled commercial banks or public financial institutions or insurance companies registered with Insurance Regulatory and Development Authority of India, during the preceding one year at a price lower than the price at which specified securities are being offered to the public in the initial public offer:

**Provided that** nothing contained in this clause shall apply:

- i. if the promoters and alternative investment funds as applicable, pay to the issuer the difference between the price at which the specified securities are offered in the initial public offer and the price at which the specified securities had been acquired;
  - ii. if such specified securities are acquired in terms of the scheme under 391 to 394 of the Companies Act, 1956 or sections 230 to 234 of the Companies Act, 2013, as approved by a High Court or a tribunal, as applicable, by the promoters in lieu of business and invested capital that had been in existence for a period of more than one year prior to such approval;
  - iii. to an initial public offer by a government company, statutory authority or corporation or any special purpose vehicle set up by any of them, which is engaged in the infrastructure sector;
- c) specified securities allotted to the promoters and alternative investment funds during the preceding one year at a price less than the issue price, against funds brought in by them during that period, in case of an issuer formed by conversion of one or more partnership firms or limited liability partnerships, where the partners of the erstwhile partnership firms or limited liability partnerships are the promoters of the issuer and there is no change in the management:

**Provided that** specified securities, allotted to the promoters against the capital existing in such firms for a period of more than one year on a continuous basis, shall be eligible;

- d) specified securities pledged with any creditor.
- (2) Specified securities referred to in clauses (a) and (c) of sub-regulation (1) shall be eligible for the computation of promoters' contribution, if such securities are acquired pursuant to a scheme which has been approved under the Companies Act, 2013 or any previous company law.

## PART IV: LOCK-IN AND RESTRICTIONS ON TRANSFERRABILITY

### Lock-in of specified securities held by the promoters

- 238.** The specified securities held by the promoters shall not be transferable (hereinafter referred to as 'lock-in') for the periods as stipulated hereunder:
- a) minimum promoters' contribution including contribution made by alternative investment funds or foreign venture capital investors or scheduled commercial banks or public financial institutions or insurance companies registered with Insurance

Regulatory and Development Authority of India, as applicable, shall be locked-in for a period of three years from the date of commencement of commercial production or date of allotment in the initial public offer, whichever is later;

- b) promoters' holding in excess of minimum promoters' contribution shall be locked-in for a period of one year from the date of allotment in the initial public offer

**Explanation:** For the purposes of this clause, the expression "date of commencement of commercial production" means the last date of the month in which commercial production of the project in respect of which the funds raised are proposed to be utilised as stated in the offer document, is expected to commence.

### **Lock-in of specified securities held by persons other than the promoters**

- 239.** The entire pre-issue capital held by persons other than the promoters shall be locked-in for a period of one year from the date of allotment in the initial public offer:

**Provided that** nothing contained in this regulation shall apply to:

- a) equity shares allotted to employees, whether currently an employee or not, under an employee stock option or employee stock purchase scheme of the issuer prior to the initial public offer, if the issuer has made full disclosures with respect to such options or scheme in accordance with **Part A of Schedule VI**
- b) equity shares held by an employee stock option trust or transferred to the employees by an employee stock option trust pursuant to exercise of options by the employees, whether currently employees or not, in accordance with the employee stock option plan or employee stock purchase scheme.

**Provided that** the equity shares allotted to the employees shall be subject to the provisions of lock-in as specified under the Securities and Exchange Board of India (Share Based Employee Benefits) Regulations, 2014.

- c) equity shares held by a venture capital fund or alternative investment fund of category I or Category II or a foreign venture capital investor:

**Provided that** such equity shares shall be locked in for a period of at least one year from the date of purchase by the venture capital fund or alternative investment fund or foreign venture capital investor.

**Explanation:** For the purpose of clause (c), in case such equity shares have resulted pursuant to conversion of fully paid-up compulsorily convertible securities, the holding period of such convertible securities as well as that of resultant equity shares together shall be considered for the purpose of calculation of one year period and convertible securities shall be deemed to be fully paid-up, if the entire consideration payable thereon has been paid and no further consideration is payable at the time of their conversion.

**Lock-in of specified securities lent to stabilising agent under the green shoe option**

**240.** The lock-in provisions shall not apply with respect to the specified securities lent to stabilising agent for the purpose of green shoe option, during the period starting from the date of lending of such specified securities and ending on the date on which they are returned to the lender in terms of sub-regulation (5) or (6) of regulation 279:

**Provided that** the specified securities shall be locked-in for the remaining period from the date on which they are returned to the lender.

**Inscription or recording of non-transferability**

**241.** The certificates of specified securities which are subject to lock-in shall contain the inscription “non-transferable” and specify the lock-in period and in case such specified securities are dematerialised, the issuer shall ensure that the lock-in is recorded by the depository.

**Pledge of locked-in specified securities**

**242.** Specified securities held by the promoters and locked-in may be pledged as a collateral security for a loan granted by a scheduled commercial bank or a public financial institution or a systemically important non-banking finance company or a housing finance company, subject to the following:

- a) if the specified securities are locked-in in terms of clause (a) of regulation 238, the loan has been granted to the issuer company or its subsidiary(ies) for the purpose of financing one or more of the objects of the issue and pledge of specified securities is one of the terms of sanction of the loan;
- b) if the specified securities are locked-in in terms of clause (b) of regulation 238 and the pledge of specified securities is one of the terms of sanction of the loan.

**Provided that** such lock-in shall continue pursuant to the invocation of the pledge and such transferee shall not be eligible to transfer the specified securities till the lock-in period stipulated in these regulations has expired.

**Transferability of locked-in specified securities**

**243.** Subject to the provisions of Securities and Exchange Board of India (Substantial Acquisition of shares and Takeovers) Regulations, 2011, the specified securities held by the promoters and locked-in as per regulation 238 may be transferred to another promoter or any person of the promoter group or a new promoter or a person in control of the issuer and the specified securities held by persons other than the promoters and locked-in as per regulation 239 may be transferred to any other person (including promoter or promoter group) holding the specified securities which are locked-in along with the securities proposed to be transferred:

**Provided that** the lock-in on such specified securities shall continue for the remaining period with the transferee and such transferee shall not be eligible to transfer them till the lock-in period stipulated in these regulations has expired.



## PART V: APPOINTMENT OF LEAD MANAGERS, OTHER INTERMEDIARIES AND COMPLIANCE OFFICER

244. (1) The issuer shall appoint one or more merchant bankers, which are registered with the Board, as lead manager(s) to the issue.
- (2) Where the issue is managed by more than one lead manager, the rights, obligations and responsibilities, relating *inter alia* to disclosures, allotment, refund and underwriting obligations, if any, of each lead manager shall be predetermined and disclosed in the draft offer document and the offer document as specified in **Schedule I**.
- (3) At least one lead manager to the issue shall not be an associate (as defined under the Securities and Exchange Board of India (Merchant Bankers) Regulations, 1992) of the issuer and if any of the lead manager is an associate of the issuer, it shall disclose itself as an associate of the issuer and its role shall be limited to marketing of the issue.
- (4) The issuer shall, in consultation with the lead manager(s), appoint other intermediaries which are registered with the Board after the lead manager(s) have independently assessed the capability of other intermediaries to carry out their obligations.
- (5) The issuer shall enter into an agreement with the lead manager(s) in the format specified in **Schedule II** and enter into agreements with other intermediaries as required under the respective regulations applicable to the intermediary concerned:
- Provided that** such agreements may include such other clauses as the issuer and the intermediary may deem fit without diminishing or limiting in any way the liabilities and obligations of the lead manager(s), other intermediaries and the issuer under the Act, the Companies Act, 2013 or the Companies Act, 1956 (to the extent applicable), the Securities Contracts (Regulation) Act, 1956, the Depositories Act, 1996 and the rules and regulations made thereunder or any statutory modification or statutory enactment thereof:
- Provided further** that in case of ASBA process, the issuer shall take cognisance of the deemed agreement of the issuer with self-certified syndicate banks.
- (6) The issuer shall, in case of an issue made through the book building process, appoint syndicate member(s) and in the case of any other issue, appoint bankers to issue, at centres specified in **Schedule XII**
- (7) The issuer shall appoint a registrar to the issue, registered with the Board, which has connectivity with all the depositories:

**Provided that** if issuer itself is a registrar, it shall not appoint itself as registrar to the issue;

**Provided further** that the lead manager shall not act as a registrar to the issue in which it is also handling the post-issue responsibilities.

- (8) The issuer shall appoint a compliance officer who shall be responsible for monitoring the compliance of the securities laws and for redressal of investors' grievances.



## PART VI: DISCLOSURES IN AND FILING OF OFFER DOCUMENTS

### Disclosures in the draft offer document and offer document

- 245.** (1) The offer document shall contain all material disclosures which are true and adequate so as to enable the applicants to take an informed investment decision.
- (2) Without prejudice to the generality of sub-regulation (1), the offer document shall contain:
- a) disclosures specified in the Companies Act, 2013; and
  - b) disclosures specified in **Part A of Schedule VI**.
- (3) The lead manager(s) shall exercise due diligence and satisfy themselves about all aspects of the issue including the veracity and adequacy of disclosure in the draft offer document and the offer document.
- (4) The lead manager(s) shall call upon the issuer, its promoters and its directors or in case of an offer for sale, also the selling shareholders, to fulfil their obligations as disclosed by the min the draft offer document or offer document, as the case may be, and as required in terms of these regulations.
- (5) The lead manager(s) shall ensure that the information contained in the offer document and the particulars as per audited financial statements in the offer document are not more than six months old from the issue opening date.

### Filing of the offer document

- 246.** (1) The issuer shall file a copy of the offer document with the Board through the lead manager(s), immediately upon [filing] of the offer document with the Registrar of Companies:
- (2) The Board shall not issue any observation on the offer document.
- (3) The lead manager(s) shall submit a due-diligence certificate as per **Form A of Schedule V** including additional confirmations as provided in **Form G of Schedule V** along with the offer document to the Board.

- (4) The offer document shall be displayed from the date of filing in terms of sub-regulation (1) on the websites of the Board, the lead manager(s) and the SME exchange(s).
- (5) The draft offer document and the offer documents shall also be furnished to the Board in a soft copy.

#### **Offer document to be made available to public**

- 247.** (1) The issuer and the lead manager(s) shall ensure that the offer documents are hosted on the websites as required under these regulations and its contents are the same as the versions as filed with the Registrar of Companies, Board and the SME exchange(s).
- (2) The lead manager(s) and the SME exchange(s) shall provide copies of the offer document to the public as and when requested and may charge a reasonable sum for providing a copy of the same.



## **PART VII - PRICING**

#### **Face value of equity shares**

- 248.** The disclosure about the face value of equity shares shall be made in the draft offer document, offer document, advertisements and application forms, along with the price band or the issue price in identical font size.

#### **Pricing**

- 249.** (1) The issuer may determine the price of equity shares, and in case of convertible securities, the coupon rate and the conversion price, in consultation with the lead manager(s) or through the book building process, as the case maybe.
- (2) The issuer shall undertake the book building process in the manner specified in **Schedule XIII**.

#### **Price and price band**

- 250.** (1) The issuer may mention a price or a price band in the offer document (in case of a fixed price issue) and a floor price or a price band in the red herring prospectus (in case of a book built issue) and determine the price at a later date before [filing] the prospectus with the Registrar of Companies:

**Provided that** the prospectus [filing with the Registrar of Companies shall contain only one price or the specific coupon rate, as the case may be.

- (2) The cap on the price band, and the coupon rate in case of convertible debt instruments shall be less than or equal to one hundred and twenty percent of the floor price.
- (3) The floor price or the final price shall not be less than the face value of the specified securities.

- (4) Where the issuer opts not to make the disclosure of the floor price or price band in the red herring prospectus, the issuer shall announce the floor price or the price band at least two working days before the opening of the issue in the newspapers in which the pre-issue advertisement was released or together with the pre-issue advertisement in the format prescribed under Part A of **Schedule X**.
- (5) The announcement referred to in sub-regulation (4) shall contain relevant financial ratios computed for both upper and lower end of the price band and also a statement drawing attention of the investors to the section titled "basis of issue price" of the offer document.
- (6) The announcement referred to in sub-regulation (4) and the relevant financial ratios referred to in sub-regulation (5) shall be disclosed on the websites of the SME exchange(s) and shall also be pre-filled in the application forms to be made available on the websites of the SME exchange(s).

### **Differential pricing**

- 251.** (1) The issuer may offer its specified securities at different prices, subject to the following:
- a) retail individual investors or retail individual shareholders [or employees entitled for reservation made under regulation 254 may be offered specified securities at a price not lower than by more than ten per cent. of the price at which net offer is made to other categories of applicants, excluding anchor investors.
  - b) the differential pricing and the price at which net offer is proposed to be made to other categories of applicants shall be within the range such that the minimum application lot size shall remain uniform for all the applicants.
  - c) In case of a book-built issue, the price of the specified securities offered to the anchor investors shall not be lower than the price offered to other applicants.
- (2) Discount, if any, shall be expressed in rupee terms in the offer document.



## **PART VIII: ISSUANCE CONDITIONS AND PROCEDURE**

### **Minimum offer to public**

- 252.** The minimum offer to the public shall be as per the provisions of clause (b) of sub-rule (2) of rule 19 of Securities Contracts (Regulations) Rules, 1957.

### **Allocation in the net offer**

- 253.** (1) The allocation in the net offer category shall be as follows:
- a) Not less than thirty-five percent. to retail individual investors;
  - b) Not less than fifteen per cent. to non-institutional investors;

- c) Not more than fifty per cent. To qualified institutional buyers, five per cent. of which shall be allocated to mutual funds:

**Provided that** the unsubscribed portion in either of the categories specified in clauses (a) or (b) may be allocated to applicants in any other category:

**Provided further** that in addition to five per cent allocation available in terms of clause (c), mutual funds shall be eligible for allocation under the balance available for qualified institutional buyers.

**“Explanation:** If the retail individual investor category is entitled to more than the allocated portion on proportionate basis, the retail individual investors shall be allocated that higher percentage.”

- (2) In an issue made other than through the book building process, the allocation in the net offer category shall be made as follows:
- a) minimum fifty per cent. to retail individual investors; and
  - b) remaining to:
    - i. individual applicants other than retail individual investors; and
    - ii. other investors including corporate bodies or institutions irrespective of the number of specified securities applied for;

**Provided that** the unsubscribed portion in either of the categories specified in clauses (a) or (b) may be allocated to applicants in the other category.

**Explanation** -For the purpose of sub-regulation (2), if the retail individual investor category is entitled to more than fifty per cent. of the issue size on a proportionate basis, the retail individual investors shall be allocated that higher percentage.

#### **Reservation on a competitive basis**

- 254.** (1) The issuer may make reservations on a competitive basis out of the issue size excluding promoters' contribution in favour of the following categories of persons:
- a) employees;
  - b) shareholders (other than promoters and promoter group) of listed subsidiaries or listed promoter companies

**Provided that** the issuer shall not make any reservation for the lead manager(s), registrar, syndicate member(s), their promoters, directors and employees and for the group or associate companies (as defined under the Companies Act, 2013) of the lead manager(s), registrar, and syndicate member(s) and their promoters, directors and employees.

- (2) The reservations on a competitive basis shall be subject to following conditions:
- a) The aggregate of reservations for employees shall not exceed five per cent. of the post-issue capital of the issuer and the value of allotment to any employee shall not exceed two lakhs rupees:  
**Provided that** in the event of under-subscription in the employee reservation portion, the unsubscribed portion may be allotted on a proportionate basis, for a value in excess of two lakhs rupees, subject to the total allotment to an employee not exceeding five lakhs rupees.
  - b) Reservation for shareholders shall not exceed ten percent of the issue size;
  - c) no further application for subscription in the net offer can be made by persons (except an employee and retail individual shareholder) in favour of whom reservation on a competitive basis is made;
  - d) any unsubscribed portion in any reserved category may be added to any other reserved category(ies) and the unsubscribed portion, if any, after such inter-se adjustments among the reserved categories shall be added to the net offer category;
  - e) In case of under-subscription in the net offer category, spill-over to the extent of under-subscription shall be permitted from the reserved category to the net public offer.
- (3) An applicant in any reserved category may make an application for any number of specified securities but not exceeding the reserved portion for that category.

### **Abridged prospectus**

- 255.** (1) The abridged prospectus shall contain the disclosures as specified in **Part E of Schedule VIII** and shall not contain any matter extraneous to the contents of the offer document.
- (2) Every application form distributed by the issuer or any other person in relation to an issue shall be accompanied by a copy of the abridged prospectus

### **ASBA**

- 256.** The issuer shall accept bids using only the ASBA facility in the manner specified by the Board.

### **Availability of issue material**

- 257.** The lead manager(s) shall ensure availability of the offer document and other issue material including application forms to stock exchanges, syndicate members, registrar to issue, registrar and share transfer agents, depository participants, stock brokers, underwriters, bankers to the issue, investors' associations and self-certified syndicate banks before the opening of the issue.

**Prohibition on payment of incentives**

**258.** Any person connected with the distribution of the issue, shall not offer any incentive, whether direct or indirect, in any manner, whether in cash or kind or services or otherwise to any person for making an application in the initial public offer, except for fees or commission for services rendered in relation to the issue.

**Security deposit**

- 259.** (1) The issuer shall, before the opening of subscription list, deposit with the designated stock exchange, an amount calculated at the rate of one per cent. of the issue size available for subscription to the public in the manner specified by Board and/or stock exchange(s).
- (2) The amount specified in sub-regulation (1) shall be refundable or forfeitable in the manner specified by the Board.

**Underwriting**

- 260.** (1) The initial public offer shall be underwritten for hundred per cent of the offer and shall not be restricted upto the minimum subscription level.
- (2) The lead manager(s) shall underwrite at least fifteen per cent. of the issue size on their own account(s).
- (3) The issuer, in consultation with lead manager(s), may appoint underwriters in accordance with Securities and Exchange Board of India (Underwriters) Regulations, 1993 and the lead manager(s) may enter into an agreement with the nominated investors indicating therein the number of specified securities which they agree to subscribe at the issue price in case of under- subscription.
- (4) The lead manager(s) shall file an undertaking to the Board that the issue has been hundred per cent. underwritten along with the list of underwriters, nominated investors and sub-underwriters indicating the extent of underwriting or subscription commitment made by each of them, one day before the opening of issue.
- (5) If any of the underwriters fail to fulfill their underwriting obligations or the nominated investors fail to subscribe to the unsubscribed portion, the lead manager(s) shall fulfill the under-writing obligations.
- (6) The underwriters/ sub-underwriters, other than the lead manager(s) and the nominated investors, who have entered into an agreement for subscribing to the issue in case of under- subscription, shall not subscribe to the issue made under this chapter in any manner except for fulfilling their obligations under their respective agreements with the lead manager(s) in this regard.
- (7) All underwriting and subscription arrangements made by the lead manager(s) shall be disclosed in the offer document.

**Market making**

261. (1) The lead manager(s) shall ensure compulsory market making through the stock brokers of the SME exchange(s) appointed by the issuer, in the manner specified by the Board for a minimum period of three years from the date of listing of the specified securities or from the date of migration from the Main Board in terms of regulation 276.
- (2) The market maker or issuer, in consultation with the lead manager(s) may enter into agreements with the nominated investors for receiving or delivering the specified securities in market making, subject to the prior approval of the SME exchange.
- (3) The issuer shall disclose the details of the market making arrangement in the offer document.
- (4) The specified securities being bought or sold in the process of market making may be transferred to or from the nominated investors with whom the lead manager(s) and the issuer have entered into an agreement for market making:
- Provided that** the inventory of the market maker, as on the date of allotment of the specified securities, shall be at least five per cent of the specified securities proposed to be listed on SME exchange.
- (5) The market maker shall buy the entire shareholding of a shareholder of the issuer in one lot, where the value of such shareholding is less than the minimum contract size allowed for trading on the SME exchange:
- Provided that** market maker shall not sell in lots less than the minimum contract size allowed for trading on the SME exchange.
- (6) The market maker shall not buy the shares from the promoters or persons belonging to the promoter group of the issuer or any person who has acquired shares from such promoter or person belonging to the promoter group during the compulsory market making period.
- (7) The promoters' holding shall not be eligible for offering to the market maker during the compulsory market making period:
- Provided that** the promoters' holding which is not locked-in as per these regulations can be traded with prior permission of the SME exchange, in the manner specified by the Board.
- (8) The lead manager(s) may be represented on the board of directors of the issuer subject to the agreement between the issuer and the lead manager(s) who have the responsibility of market making.

**Monitoring agency**

**262.** (1) If the issue size, excluding the size of offer for sale by selling shareholders, exceeds one hundred crore rupees, the issuer shall make arrangements for the use of proceeds of the issue to be monitored by a public financial institution or by one of the scheduled commercial banks named in the offer document as bankers of the issuer:

**Provided that** nothing contained in this clause shall apply to an issue of specified securities made by a bank or public financial institution or an insurance company.

- (2) The monitoring agency shall submit its report to the issuer in the format specified in **Schedule XI** on a quarterly basis, till at least ninety-five per cent. of the proceeds of the issue, excluding the proceeds raised for general corporate purposes, have been utilised.
- (3) The board of directors and the management of the issuer shall provide their comments on the findings of the monitoring agency as specified in **Schedule XI**.
- (4) The issuer shall, within forty five days from the end of each quarter, publicly disseminate the report of the monitoring agency by uploading the same on its website as well as submitting the same to the stock exchange(s) on which its equity shares are listed.

**Public communications, publicity materials, advertisements and research reports**

**263.** All public communications, publicity materials, advertisements and research reports shall comply with provisions of **Schedule IX**.

**Issue-related advertisements**

**264.** (1) Subject to the provisions of the Companies Act, 2013, the issuer shall, after [filing] the prospectus with the Registrar of Companies, make a pre-issue advertisement in one English national daily newspaper with wide circulation, Hindi national daily newspaper with wide circulation and one regional language newspaper with wide circulation at the place where the registered office of the issuer is situated.

- (2) The pre-issue advertisement shall be in the format and shall contain the disclosures specified in **Part A** of **Schedule X**.

**Provided that** the disclosures in relation to price band or floor price and financial ratios contained therein shall only be applicable where the issuer opts to announce the price band or floor price along with the pre-issue advertisement pursuant to sub-regulation (4) of regulation 250.

- (3) The issuer may issue advertisements for issue opening and issue closing advertisements, which shall be in the formats specified in **Parts B and C** of **Schedule X**.

- (4) During the period the issue is open for subscription, no advertisement shall be released giving an impression that the issue has been fully subscribed or oversubscribed or indicating investors' response to the issue.
- (5) An announcement regarding closure of the issue shall be made only after the lead manager(s) is satisfied that at least ninety per cent. of the offer has been subscribed and a certificate has been obtained to that effect from the registrar to the issue:

**Provided that** such an announcement shall not be made before the date on which the issue is to be closed except for issue closing advertisement made in the format prescribed in these regulations.

### Opening of the issue

**265.** The issue shall be opened after at least three working days from the date of [filing] the offer document with the Registrar of Companies.

### Period of subscription

- 266.** (1) Except as otherwise provided in these regulations, a public issue shall be kept open for at least three working days and not more than ten working days.
- (2) In case of a revision in the price band, the issuer shall extend the bidding (issue) period disclosed in the red herring prospectus, for a minimum period of three working days, subject to the provisions of sub-regulation(1).
  - (3) In case of force majeure, banking strike or similar circumstances, the issuer may, for reasons to be recorded in writing, extend the bidding (issue) period disclosed in the red herring prospectus (in case of a book built issue) or the issue period disclosed in the prospectus (in case of a fixed price issue), for a minimum period of three working days, subject to the provisions of sub-regulation(1).

### Application and minimum application value

**267.** (1) A person shall not make an application in the net offer category for a number of specified securities that exceeds the total number of specified securities offered to the public.

**Provided that** the maximum application by non-institutional investors shall not exceed total number of specified securities offered in the issue less total number of specified securities offered in the issue to qualified institutional buyers.

- (2) The minimum application size shall be one lakh rupees preapplication.
- (3) The issuer shall invite applications in multiples of the minimum application amount, an illustration whereof is given in **Part B of Schedule XIV**.
- (4) The minimum sum payable on application per specified security shall at least be twenty five per cent. of the issue price:

**Provided that** in case of an offer for sale, the full issue price for each specified security shall be payable on application.

**Explanation:** For the purpose of this regulation, “minimum application value” shall be with reference to the issue price of the specified securities and not with reference to the amount payable on application.

#### **Allotment procedure and basis of allotment**

- 268.** (1) The issuer shall not make an allotment pursuant to a public issue if the number of allottees in an initial public offer is less than fifty.
- (2) The issuer shall not make any allotment in excess of the specified securities offered through the offer document except in case of oversubscription for the purpose of rounding off to make allotment, in consultation with the designated stock exchange.

**Provided that** in case of oversubscription, an allotment of not more than ten per cent of the net offer to public may be made for the purpose of making allotment in minimum lots.

- (3) The allotment of specified securities to applicants other than retail individual investors and anchor investors shall be on proportionate basis within the specified investor categories and the number of securities allotted shall be rounded off to the nearest integer, subject to minimum allotment being equal to the minimum application size as determined and disclosed in the offer document:

**Provided that** the value of specified securities allotted to any person, except in case of employees, in pursuance of reservation made under clause (a) of sub-regulation (1) or clause (a) of sub- regulation (2) of regulation 254, shall not exceed two lakhs rupees.

- (4) The authorised employees of the stock exchange, along with the lead manager(s) and registrars to the issue, shall ensure that the basis of allotment is finalised in a fair and proper manner in accordance with the allotment procedure as specified in **Part A of Schedule XIV**.

#### **Allotment, refund and payment of interest**

- 269.** (1) The registrars to the issue, in consultation with the issuer and lead manager(s) shall ensure that the specified securities are allotted and/or application monies are refunded or unblocked within such time as may be specified by the Board.
- (2) The lead manager(s) shall ensure that the allotment, credit of dematerialised securities, refunding or unlocking of application monies, as may be applicable, are done electronically.
- (3) Where the specified securities are not allotted and/or application monies are not refunded or unblocked within the period stipulated in sub-regulation (1) above, the issuer shall undertake to pay interest at the rate of fifteen per cent. per annum and

within such time as disclosed in the offer document and the lead manager(s) shall ensure the same.

#### **Post-issue advertisements**

- 270.** (1) The lead manager(s) shall ensure that advertisement giving details relating to subscription, basis of allotment, number, value and percentage of all applications including ASBA, number, value and percentage of successful allottees for all applications including ASBA, date of completion of dispatch of refund orders, as applicable, or instructions to self-certified syndicate banks by the Registrar, date of credit of specified securities and date of filing of listing application, etc. is released within ten days from the date of completion of the various activities in atleast one English national daily newspaper with wide circulation, one Hindi national daily newspaper with wide circulation and one regional language daily newspaper with wide circulation at the place where registered office of the issuer is situated.
- (2) Details specified in sub regulation (1) shall also be placed on the website of the stock exchanges.

#### **Post-issue responsibilities of the lead manager(s)**

- 271.** (1) The responsibility of the lead manager(s) shall continue until completion of the issue process and for any issue related matter thereafter.
- (2) The lead manager(s) shall regularly monitor redressal of investor grievances arising from any issue related activities.
- (3) The lead manager(s) shall be responsible for and co-ordinate with the registrars to the issue and with various intermediaries at regular intervals after the closure of the issue to monitor the flow of applications from syndicate member(s) or collecting bank branches and or self-certified syndicate banks, processing of the applications including application form for ASBA and other matters till the basis of allotment is finalised, credit of the specified securities to the demat accounts of the allottees and unblocking of ASBA accounts/ despatch of refund orders are completed and securities are listed, as applicable.
- (4) Any act of omission or commission on the part of any of the intermediaries noticed by the lead manager(s) shall be duly reported by them to the Board.
- (5) In case there is a devolvement on underwriters, the lead manager(s) shall ensure that the notice for devolvement containing the obligation of the underwriters is issued within a period of ten days from the date of closure of the issue.
- (6) In the case of undersubscribed issues that are underwritten, the lead manager(s) shall furnish information in respect of underwriters who have failed to meet their underwriting devolvement to the Board in the format specified in **Schedule XVIII**.

**Release of subscription money**

272. (1) The lead manager(s) shall confirm to the bankers to the issue by way of copies of listing and trading approvals that all formalities in connection with the issue have been completed and that the banker is free to release the money to the issuer or release the money for refund in case of failure of the issue.
- (2) In case the issuer fails to obtain listing or trading permission from the stock exchanges where the specified securities were to be listed, it shall refund through verifiable means the entire monies received within seven days of receipt of intimation from stock exchanges rejecting the application for listing of specified securities, and if any such money is not repaid within eight days after the issuer becomes liable to repay it the issuer and every director of the company who is an officer in default shall, on and from the expiry of the eighth day, be jointly and severally liable to repay that money with interest at the rate of fifteen per cent per annum.
- (3) The lead manager(s) shall ensure that the monies received in respect of the issue are released to the issuer in compliance with the provisions of the Section 40 (3) of the Companies Act, 2013, as applicable.

**Post-issue reports**

273. The lead manager(s) shall submit a final post-issue report as specified in **Part A of Schedule XVII**, along with a due diligence certificate as per the format specified in **Form F of Schedule V**, within seven days of the date of finalization of basis of allotment or within seven days of refund of money in case of failure of issue.

**Reporting of transactions of the promoters and promoter group**

274. The issuer shall ensure that all transactions in securities by the promoters and promoter group between the date of filing of the draft offer document or offer document, as the case may be, and the date of closure of the issue shall be reported to the stock exchanges, within twenty four hours of such transactions.

**Listing**

275. Where any listed issuer issues specified securities in accordance with provisions of this Chapter, it shall migrate the specified securities already listed on any recognised stock exchange(s) to the SME exchange.

**Migration to the SME exchange**

276. A listed issuer whose post-issue face value capital is less than twenty five crore rupees may migrate its specified securities to SME exchange if its shareholders approve such migration by passing a special resolution through postal ballot to this effect and if such issuer fulfils the eligibility criteria for listing laid down by the SME exchange:

**Provided that** the special resolution shall be acted upon if and only if the votes cast by shareholders other than promoters in favour of the proposal amount to at least two times the number of votes cast by shareholders other than promoter shareholders against the proposal.

### Migration to the main board

**277.** An issuer, whose specified securities are listed on a SME Exchange and whose post-issue face value capital is more than ten crore rupees and up to twenty five crore rupees, may migrate its specified securities to the main board of the stock exchanges if its shareholders approve such a migration by passing a special resolution through postal ballot to this effect and if such issuer fulfils the eligibility criteria for listing laid down by the Main Board:

**Provided that** the special resolution shall be acted upon if and only if the votes cast by shareholders other than promoters in favour of the proposal amount to at least two times the number of votes cast by shareholders other than promoter shareholders against the proposal.



## PART IX: MISCELLANEOUS

### Restriction on further capital issues

**278.** An issuer shall not make any further issue of specified securities in any manner whether by way of public issue, rights issue, preferential issue, qualified institutions placement, issue of bonus shares or otherwise, except pursuant to an employee stock option scheme, during the period between the date of filing the draft offer document and the listing of the specified securities offered through the offer document or refund of application monies unless full disclosures regarding the total number of specified securities or amount proposed to be raised from such further issue are made in such draft offer document or offer document, as the case maybe.

### Price stabilisation through green shoe option

- 279.** (1) The issuer may provide green shoe option for stabilizing the post listing price of its specified securities, subject to the following:
- a) the issuer has been authorized, by a resolution passed in the general meeting of shareholders approving the public issue, to allot specified securities to the stabilising agent, if required, on the expiry of the stabilization period;
  - b) the issuer has appointed a lead manager(s) appointed by the issuer as a stabilising agent, who shall be responsible for the price stabilization process;
  - c) prior to filing the draft offer document, the issuer and the stabilizing agent have entered into an agreement, stating all the terms and conditions relating to the green shoe option including fees charged and expenses to be incurred by the stabilising agent for discharging its responsibilities;

- d) prior to filing the offer document, the stabilizing agent has entered into an agreement with the promoters or pre-issue shareholders or both for borrowing specified securities from them in accordance with clause (g) of this sub-regulation, specifying therein the maximum number of specified securities that may be borrowed for the purpose of allotment or allocation of specified securities in excess of the issue size (hereinafter referred to as the “over-allotment”), which shall not be in excess of fifteen percent of the issue size;
  - e) subject to clause (d), the lead manager(s), in consultation with the stabilising agent, shall determine the amount of specified securities to be over-allotted in the public issue;
  - f) the draft offer document and offer document shall contain all material disclosures about the green shoe option specified in this regard in **Part A of Schedule VI**;
  - g) in case of an initial public offer pre-issue shareholders and promoters and in case of a further public offer pre-issue shareholders holding more than five per cent. specified securities and promoters, may lend specified securities to the extent of the proposed over-allotment;
  - h) the specified securities borrowed shall be in dematerialised form and allocation of these securities shall be made pro-rata to all successful applicants.
- (2) For the purpose of stabilization of post-listing price of the specified securities, the stabilising agent shall determine the relevant aspects including the timing of buying such securities, quantity to be bought and the price at which such securities are to be bought from the market.
  - (3) The stabilisation process shall be available for a period not exceeding thirty days from the date on which trading permission is given by the stock exchanges in respect of the specified securities allotted in the public issue.
  - (4) The stabilizing agent shall open a special account, distinct from the issue account, with a bank for crediting the monies received from the applicants against the over-allotment and a special account with a depository participant for crediting specified securities to be bought from the market during the stabilisation period out of the monies credited in the special bank account.
  - (5) The specified securities bought from the market and credited in the special account with the depository participant shall be returned to the promoters or pre-issue shareholders immediately, in any case not later than two working days after the end of the stabilization period.
  - (6) On expiry of the stabilisation period, if the stabilizing agent has not been able to buy specified securities from the market to the extent of such securities over-allotted, the

issuer shall allot specified securities at issue price in dematerialised form to the extent of the shortfall to the special account with the depository participant, within five days of the closure of the stabilization period and such specified securities shall be returned to the promoters or pre-issue shareholders by the stabilizing agent in lieu of the specified securities borrowed from them and the account with the depository participant shall be closed thereafter.

- (7) The issuer shall make a listing application in respect of the further specified securities allotted under sub-regulation (6), to all the stock exchanges where the specified securities allotted in the public issue are listed and the provisions of Chapter VII shall not be applicable to such allotment.
- (8) The stabilizing agent shall remit the monies with respect to the specified securities allotted under sub-regulation (6) to the issuer from the special bank account.
- (9) Any monies left in the special bank account after remittance of monies to the issuer under sub-regulation (8) and deduction of expenses incurred by the stabilizing agent for the stabilisation process shall be transferred to the Investor Protection and Education Fund established by the Board and the special bank account shall be closed soon thereafter.
- (10) The stabilising agent shall submit a report to the stock exchange on a daily basis during the stabilization period and a final report to the Board in the format specified in **Schedule XV**.
- (11) The stabilizing agent shall maintain a register for a period of at least three years from the date of the end of the stabilization period and such register shall contain the following particulars:
  - a) The names of the promoters or pre-issue shareholders from whom the specified securities were borrowed, and the number of specified securities borrowed from each of them;
  - b) The price, date and time in respect of each transaction effected in the course of the stabilization process; and
  - c) The details of allotment made by the issuer on expiry of the stabilization process.

#### **Alteration of rights of holders of specified securities**

- 280.** (1) The issuer shall not alter the terms (including the terms of issue) of specified securities which may adversely affect the interests of the holders of that specified securities, except with the consent in writing of the holders of not less than three-fourths of the specified securities of that class or with the sanction of a special resolution passed at a meeting of the holders of the specified securities of that class.

- (2) Where the post-issue face value capital of an issuer listed on a SME exchange is likely to increase beyond twenty five crore rupees by virtue of any further issue of capital by the issuer by way of rights issue, preferential issue, bonus issue, etc. the issuer shall migrate its specified securities listed on a SME exchange to the Main Board and seek listing of the specified securities proposed to be issued on the Main Board subject to the fulfilment of the eligibility criteria for listing of specified securities laid down by the Main Board:

**Provided that** no further issue of capital by the issuer shall be made unless –

- a) the shareholders of the issuer have approved the migration by passing a special resolution through postal ballot wherein the votes cast by shareholders other than promoters in favour of the proposal amount to at least two times the number of votes cast by shareholders other than promoter shareholders against the proposal;
- b) the issuer has obtained an in-principle approval from the Main Board for listing of its entire specified securities on it.

#### Further Issues

- 281.** An issuer listed on a SME exchange making a further issue of capital by way of a rights issue, or further public offer or preferential issue or bonus issue etc. may do so by adhering to applicable requirements mentioned in these regulations.

## CHAPTER X



### INNOVATORS GROWTH PLATFORM

#### PART I: APPLICABILITY

- 282.** (1) The provisions of this Chapter shall apply to issuers seeking listing of their specified securities pursuant to an initial public offer or for only trading on a stock exchange of their specified securities without making a public offer.
- (2) The provisions of these regulations, in respect of the matters not specifically dealt or excluded under this Chapter, shall apply *mutatis mutandis* to any listing or trading of specified securities under this Chapter.

**Provided that** the following shall not apply:

- a) sub-regulation (2) of regulation 7 on restrictions on the amount of general corporate purposes; and
- b) sub-regulation (1) and (2) of regulation 6 on eligibility requirements

- (3) The institutional trading platform shall be accessible only to institutional investors and non- institutional investors.

### Eligibility

- 283.** (1) An issuer which is intensive in the use of technology, information technology, intellectual property, data analytics, bio-technology or nano-technology to provide products, services or business platforms with substantial value addition shall be eligible for listing on the innovators growth platform, provided that as on the date of filing of draft information document or draft offer document with the Board, as the case may be, twenty five per cent of the pre-issue capital of the Issuer Company for at least a period of one year, should have been held by:
- I. Qualified Institutional Buyers;
  - II. Innovators Growth Platform Investors for the purpose of Innovators Growth Platform;
  - III. The following regulated entities:  
The following regulated entities:
    - a) Foreign Portfolio Investor;
    - b) An entity meeting all the following criteria:
      - (i) It is a pooled investment fund with minimum assets under management of one hundred and fifty million USD;
      - (ii) It is registered with a financial sector regulator in the jurisdiction of which it is a resident;
      - (iii) It is resident of a country whose securities market regulator is a signatory to the International Organization of Securities Commission's Multilateral Memorandum of Understanding (Appendix A Signatories) or a signatory to Bilateral Memorandum of Understanding with the Board;
      - (iv) It is not resident in a country identified in the public statement of Financial Action Task Force as:
        - (a) a jurisdiction having a strategic Anti-Money Laundering or Combating the Financing of Terrorism deficiencies to which counter measures apply; or
        - (b) a jurisdiction that has not made sufficient progress in addressing the deficiencies or has not committed to an action plan developed with the Financial Action Task Force to address the deficiencies.

- IV. Any other class of investors as specified by Securities and Exchange Board of India from time to time.

**Explanation:**

- a) The following entities shall be eligible to be considered as Innovators Growth Platform Investors for the purpose of innovators growth platform:
- (i) any individual with total gross income of fifty lakhs rupees annually and who has minimum liquid net worth of five crore rupees; or
  - (ii) any body corporate with net worth of twenty five crore rupees.
  - (iii) any family trust with net worth of twenty five crore rupees.
- b) Pre-issue capital held by promoters/promoter groups, even if they are registered as Innovators Growth Platform Investors, shall not be considered for the 25% pre-issue capital eligibility requirement specified under sub-regulation (1) of regulation 283.
- c) For the purpose of accreditation: The persons /corporate bodies who wish to get accreditation for the purpose of innovators growth platform, shall approach the stock exchanges or depositories and follow the procedures prescribed by the Board and / or such stock exchange or depository for the purpose of accreditation as an Innovators Growth Platform Investor, from time to time.
- (2) An issuer shall be eligible for listing on the Innovators Growth Platform if none of the promoters or directors of the issuer company is a fugitive economic offender.



## PART II: LISTING WITHOUT A PUBLIC ISSUE

### Listing without a public issue

- 284.** (1) An issuer seeking listing of its specified securities without making a public offer, shall file a draft information document along with the necessary documents with the Board in accordance with these regulations along with the fee as specified in **Schedule III** of these regulations.
- (2) The draft information document shall contain disclosures as specified for the draft offer documents in these regulations as specified in **Part A of Schedule VI**.
- (3) The regulations relating to the following as stated under the Chapter of Initial Public Offer on Main Board shall not be applicable:
- a) allotment;
  - b) issue opening or closing;
  - c) advertisements;

- d) underwriting;
  - e) sub-regulation (2) of regulation 5;
  - f) pricing;
  - g) dispatch of issue material; and
  - h) other such provisions related to offer of specified securities to the public.
- (4) The issuer shall obtain an in-principle approval from the stock exchanges on which it proposes to get its specified securities listed.
- (5) The issuer shall list its specified securities on the recognised stock exchange (s) within thirty days:
- a) from the date of issuance of observations by the Board; or
  - b) from the expiry of the period stipulated in sub-regulation (4) of regulation 25, if the Board has not issued any such observations.
- (6) The issuer which has received an in-principle approval from the stock exchange for listing of its specified securities, shall be deemed to have been waived by the Board under sub-rule (7) of rule 19 from the requirement of minimum offer to the public as per the provisions of clause (b) of sub-rule (2) of rule 19 of Securities Contracts (Regulation) Rules, 1957 for the limited purpose of listing on the innovators growth platform.
- (7) Provisions relating to minimum public shareholding shall not be applicable.
- (8) The draft and final information document shall be approved by the board of directors of the issuer and shall be signed by all directors, the Chief Executive Officer, i.e., the Managing Director or Manager within the meaning of the Companies Act, 2013 and the Chief Financial Officer, i.e., the Whole-time Finance Director or any other person heading the finance function and discharging that function.
- (9) The signatories shall also certify that all disclosures made in the information document are true and correct.
- (10) In case of mis-statement in the information document or any omission therein, any person who has authorized the issue of information document shall be liable in accordance with the provisions of the Act and regulations made thereunder.

**Explanation:** Under this Part, the phrases 'pre-issue' and 'post-issue', wherever they occur shall be construed as 'pre-listing' and 'post-listing', respectively.



## PART III: LISTING PURSUANT TO AN INITIAL PUBLIC OFFER

### Disclosures in draft offer document and offer document

285. (1) An issuer seeking to issue and list its specified securities shall file a draft offer document along with necessary documents with the Board in accordance with these regulations along with the fees as specified in **Schedule III** of these regulations.
- (2) The draft offer document shall disclose the broad objects of the issue.
- (3) The basis of issue price shall include disclosures, except projections, as deemed fit by the issuer in order to enable the investors to take informed decisions and the disclosures shall suitably contain the basis of valuation.

### Minimum public shareholding norms and minimum offer size

- 285A. (1) The issuer shall be in compliance with minimum public shareholding requirements specified in the Securities Contracts (Regulation) Rules, 1957.
- (2) The minimum offer size shall be ten crore rupees.

### Minimum application size

286. The minimum application size shall be two lakh rupees and in multiples thereof.

### Allocation and allotment

287. (1) The number of allottees in the initial public offer shall at least be fifty.
- (2) The allotment to institutional investors as well as non-institutional investors shall be on a proportionate basis.
- (3) Any under-subscription in the non-institutional investor category shall be available for subscription under the institutional investors' category.
- (4) The issuer may allocate up to sixty per cent of the issue size on a discretionary basis, prior to the issue opening, to eligible investors as identified under sub-regulation (1) of regulation 283, in accordance with the requirements with respect to anchor investors for public issue made on the SME exchange as specified in Part A of Schedule XIII:

**Provided that** the price of the specified securities offered to eligible investors shall not be lower than the price offered to other applicants.

Provided further that eligible investors shall make an application of a value of at least fifty lakh rupees.



## PART IV: GENERAL CONDITIONS

### Lock-in

288. (1) The entire pre-issue capital of the shareholders shall be locked-in for a period of six months from the date of allotment in case of listing pursuant to a public issue or date of listing in case of listing without a public issue:

**Provided** that nothing contained in this regulation shall apply to:

- a) equity shares allotted to employees, whether currently an employee or not, under an employee stock option or employee stock purchase scheme of the issuer prior to the initial public offer, if the issuer has made full disclosures with respect to such options or scheme in accordance with Part A of **Schedule VI**;
- b) equity shares held by an employee stock option trust or transferred to the employees by an employee stock option trust pursuant to exercise of options by the employees, whether currently employees or not, in accordance with the employee stock option plan or employee stock purchase scheme.

**Provided that** the equity shares allotted to the employees shall be subject to the provisions of lock-in as specified under the Securities and Exchange Board of India (Share Based Employee Benefits) Regulations, 2014.

- c) equity shares held by a venture capital fund or alternative investment fund of Category I or Category II or a foreign venture capital investor:
- d) Provided that such equity shares shall be locked-in for a period of at least one year from the date of purchase by the venture capital fund or alternative investment fund or foreign venture capital investor.
- e) equity shares held by persons other than the promoters, continuously for a period of at least one year prior to the date of listing in case of listing without a public issue:

**Explanation:** For the purpose of clause (c) and (d), in case such equity shares have resulted pursuant to conversion of fully paid-up compulsorily convertible securities, the holding period of such convertible securities as well as that of resultant equity shares together shall be considered for the purpose of calculation of one year period and the convertible securities shall be deemed to be fully paid-up, if the entire consideration payable thereon has been paid at the time of their conversion.

- (2) The specified securities held by the promoters and locked-in may be pledged with any scheduled commercial bank or public financial institution or systemically important non-banking finance company as a collateral security for a loan granted by such bank

or institution or systemically important non-banking finance company if the pledge of specified securities is one of the terms of sanction of the loan.

- (3) The specified securities that are locked-in may be transferable in accordance with regulation 288 of these regulations.
- (4) All specified securities allotted on a discretionary basis shall be locked-in in accordance with the requirements for lock-in for the anchor investors on the main board of the stock exchange, as specified under Part A of **Schedule XIII**.
- (5) The SR equity shares shall be locked-in till conversion into equity shares with voting rights similar to that of ordinary shares or shall be locked-in for a period specified in sub-regulations (1), whichever is later.

### Trading lot

**289.** The minimum trading lot on the stock exchange shall be two lakh rupees and in multiples thereof.

### Exit of issuers whose securities are trading without making a public offer

**290.** An issuer whose specified securities are traded on the innovators growth platform without making a public issue may exit from that platform, if

- a) its shareholders approve such an exit by passing a special resolution through postal ballot where ninety per cent of the total votes and the majority of non-promoter votes have been cast in favor of such proposal; and
- b) the recognised stock exchange where its shares are listed approves of such an exit.

### Exit of issuers whose securities are listed and trading on the Innovators Growth Platform pursuant to an initial public offer.

**290A** (1) The provisions of the Securities and Exchange Board of India (Delisting of Equity Shares) Regulations, 2009, in respect of the matters not specifically dealt or excluded under this regulation, shall apply *mutatis mutandis* to delisting of specified securities under these regulations:

**Provided that** the following provisions of the Securities and Exchange Board of India (Delisting of Equity Shares) Regulations, 2009 shall not apply:

- (a) clause (a) and (b) of sub-regulation (1) of regulation 8 of the Securities and Exchange Board of India (Delisting of Equity Shares) Regulations, 2009, relating to conditions and procedure for delisting where exit opportunity is required;
- (b) regulation 15 of the Securities and Exchange Board of India (Delisting of Equity Shares) Regulations, 2009, relating to offer price; and

- (c) regulation 17 of the Securities and Exchange Board of India (Delisting of Equity Shares) Regulations, 2009, relating to minimum number of equity shares to be acquired.
- (2) An issuer company whose specified securities are traded on the Innovators Growth Platform pursuant to an initial public offer may exit from the Innovators Growth Platform, if -
- (a) such an exit is approved by the board of directors of the company in its meeting;
  - (b) such an exit is approved by the shareholders of the company by a special resolution passed through postal ballot or e-voting, after disclosure of all material facts in the explanatory statement sent to the shareholders in relation to such resolution:
 

**Provided** further that the special resolution shall be acted upon only if the votes cast by the majority of public shareholders are in favor of such exit proposal;
  - (c) delisting price is based on a floor price determined in terms of regulation 8 of Securities and Exchange Board of India (Substantial Acquisition of Shares and Takeovers) Regulations, 2011, as may be applicable, and an additional delisting premium justified by the acquirer / promoter;
  - (d) the post offer acquirer / promoter shareholding (along with the persons acting in concert with the acquirer / promoter), taken together with the shares tendered reaches seventy five per cent of the total issued shares of that class and at least fifty per cent shares of the public shareholders as on date of the meeting referred to in clause (a) of this sub-regulation are tendered and accepted;
  - (e) and recognised stock exchange(s) where its shares are listed approves of such an exit.

#### **Withdrawal of approval by the stock exchange**

- 291.** (1) The recognised stock exchange may delist the specified securities of an issuer listed without making a public issue upon non-compliance of the conditions of listing and in the manner as specified by the stock exchange.
- (2) No issuer promoted by the promoters and directors of an entity delisted under sub-regulation (1), shall be permitted to list on the innovators growth platform for a period of five years from the date of such delisting:

**Provided that** the provisions of this regulation shall not apply to another issuer promoted by any of the independent directors of such a delisted issuer.

**[PART V: MIGRATION TO THE MAIN BOARD****Granting companies listed on the Innovators Growth Platform pursuant to an initial public offer, an option to trade under the regular category of the main board of the stock exchange**

292. (1) A company shall be eligible to trade under the regular category of the main board of the stock exchanges, subject to fulfillment of the conditions of the stock exchanges, if any, and the fulfillment of the following conditions:
- (a) It has listed its specified securities for a minimum period of one year on the Innovators Growth Platform of a recognised stock exchange;
  - (b) It has minimum of two hundred shareholders, at the time of making the application for trading under the regular category;
  - (c) The company, any of its promoters, promoter group or directors are not debarred from accessing the capital market by the Board;
  - (d) None of the promoters or directors of the company is a promoter or director of any other company which is debarred from accessing the capital market by the Board;
  - (e) The company or any of its promoters or directors is not a willful defaulter; and
  - (f) None of the promoters or directors of the Company is a fugitive economic offender.

**Explanation:** The restrictions under (c) and (d) above shall not apply to persons or entities mentioned therein, who were debarred in the past by the Board and the period of debarment is over as on the date of application for migration of trading to the regular category of the main board of the stock exchange.

**Eligibility requirements**

- (2) A company shall be eligible to trade under the regular category of the main board of the stock exchanges, only if:
- (a) it has net tangible assets of at least three crore rupees, calculated on a consolidated basis, in each of the preceding three full years (of twelve months each), of which not more than fifty per cent. are held in monetary assets;
  - (b) it has an average operating profit of at least fifteen crore rupees, calculated on a consolidated basis, during the preceding three years (of twelve months each), with operating profit in each of these preceding three years;
  - (c) it has a net worth of at least one crore rupees in each of the preceding three full years (of twelve months each), calculated on a consolidated basis; and
  - (d) in case it has changed its name within the last one year, at least fifty per cent of the revenue, calculated on a consolidated basis, for the preceding one full year has been earned by it from the activity indicated by its new name.

- (3) A company not satisfying the conditions laid down under sub-regulation (2) of regulation 292, shall, as on date of application for migration under the regular category, have fifty per cent of its capital held by Qualified Institutional Buyers.

**Minimum promoters' contribution**

- (4) The promoters of the company shall hold at least twenty per cent of the total capital:
- Provided that in case the total capital held by the promoters is less than twenty per cent, alternative investment funds or foreign venture capital investors or scheduled commercial banks or public financial institutions or insurance companies registered with Insurance Regulatory and Development Authority of India may contribute to meet the shortfall in minimum contribution as specified, subject to a maximum of ten per cent of the total capital without being identified as promoter(s):
- Provided further that the requirement of minimum promoters' contribution shall not apply in case a company does not have any identifiable promoter.

**Lock-in period**

- (5) (a) The minimum promoters' contribution including contribution made by alternative investment funds or foreign venture capital investors or scheduled commercial banks or public financial institutions or insurance companies registered with the Insurance Regulatory and Development Authority of India, shall be locked in for a period of three years from the date on which trading approval in regular category of main board is granted, and any excess over and above the 20% of promoter's holding shall be locked-in for a period of one year.
- (b) Wherever the contributions made by such entities had been locked-in for a period of six months at the time of listing of shares of the Company on the Innovators Growth Platform, and the company is desirous of migrating to the regular trade category of the main board after 169 completion of listing on the Innovators Growth Platform for one year, such period shall be deducted from the stipulated lock-in requirement of three years and one year, as may be applicable.
- (c) The condition of lock in would not apply to a Company which has been listed on the Innovators Growth Platform for a minimum period of three years or more.]

## CHAPTER XI

### BONUS ISSUE

#### Conditions for a bonus issue

**293.** Subject to the provisions of the Companies Act, 2013 or any other applicable law, a listed issuer shall be eligible to issue bonus shares to its members if:

- a) it is authorised by its articles of association for issue of bonus shares, capitalisation of reserves etc.:

**Provided that** if there is no such provision in the articles of association, the issuer shall pass a resolution at its general body meeting making provisions in the articles of associations for capitalisation of reserve;

- b) it has not defaulted in payment of interest or principal in respect of fixed deposits or debt securities issued by it;
- c) it has not defaulted in respect of the payment of statutory dues of the employees such as contribution to provident fund, gratuity and bonus;
- d) any outstanding partly paid shares on the date of the allotment of the bonus shares, are made fully paid-up;
- e) any of its promoters or directors is not a fugitive economic offender.

#### Restrictions on a bonus issue

- 294.** (1) An issuer shall make a bonus issue of equity shares only if it has made reservation of equity shares of the same class in favour of the holders of outstanding compulsorily convertible debt instruments if any, in proportion to the convertible part thereof.
- (2) The equity shares so reserved for the holders of fully or partly compulsorily convertible debt instruments, shall be issued to the holder of such convertible debt instruments or warrants at the time of conversion of such convertible debt instruments, optionally convertible instruments, warrants, as the case may be, on the same terms or same proportion at which the bonus shares were issued.
- (3) A bonus issue shall be made only out of free reserves, securities premium account or capital redemption reserve account and built out of the genuine profits or securities premium collected in cash and reserves created by revaluation of fixed assets shall not be capitalised for this purpose.
- (4) Without prejudice to the provisions of sub-regulation (3), bonus shares shall not be issued in lieu of dividends.

- [(5) If an issuer has issued SR equity shares to its promoters or founders, any bonus issue on the SR equity shares shall carry the same ratio of voting rights compared to ordinary shares and the SR equity shares issued in a bonus issue shall also be converted to equity shares having voting rights same as that of ordinary equity shares along with existing SR equity shares.]

### Completion of a bonus issue

295. (1) An issuer, announcing a bonus issue after approval by its board of directors and not requiring shareholders' approval for capitalisation of profits or reserves for making the bonus issue, shall implement the bonus issue within fifteen days from the date of approval of the issue by its board of directors:

**Provided that** where the issuer is required to seek shareholders' approval for capitalisation of profits or reserves for making the bonus issue, the bonus issue shall be implemented within two months from the date of the meeting of its board of directors wherein the decision to announce the bonus issue was taken subject to shareholders' approval.

**Explanation:** For the purpose of a bonus issue to be considered as 'implemented' the date of commencement of trading shall be considered.

- (2) A bonus issue, once announced, shall not be withdrawn.

## [CHAPTER XI-A



## POWER TO RELAX STRICT ENFORCEMENT OF THE REGULATIONS

### Exemption from enforcement of the regulations in special cases.

- 295A. (1) The Board may, exempt any person or class of persons from the operation of all or any of the provisions of these regulations for a period as may be specified but not exceeding twelve months, for furthering innovation in technological aspects relating to testing new products, processes, services, business models, etc. in live environment of regulatory sandbox in the securities markets.
- (2) Any exemption granted by the Board under sub-regulation (1) shall be subject to the applicant satisfying such conditions as may be specified by the Board including conditions to be complied with on a continuous basis.

**Explanation** — For the purposes of these regulations, "regulatory sandbox" means a live testing environment where new products, processes, services, business models, etc. may be deployed on a limited set of eligible customers for a specified period of time, for furthering innovation in the securities market, subject to such conditions as may be specified by the Board.]

## CHAPTER XII



### MISCELLANEOUS

#### Directions by the Board

**296.** Without prejudice to the power under sections 11, 11A, 11B, 11D, sub-section (3) of section 12, Chapter VIA and section 24 of the Act, the Board may either *sudomotor* on receipt of information or on completion or pendency of any inspection, inquiry or investigation, in the interests of investors or the securities market, issue such directions or orders as it deems fit including any or all of the following:

- a) directing the persons concerned not to access the securities market for a specified period;
- b) directing the person concerned to sell or divest the securities;
- c) any other direction which Board may deem fit and proper in the circumstances of the case:

**Provided that** the Board shall, either before or after issuing such direction or order, give a reasonable opportunity of being heard to the person concerned:

**Provided further** that if any interim direction or order is required to be issued, the Board may give post-decisional hearing to the person concerned.

#### Liability for contravention of the Act, rules or the regulations

**297.** (1) The listed issuer or any other person thereof who contravenes any of the provisions of these regulations, shall, in addition to the liability for action in terms of the securities laws, be liable for the following actions by the respective stock exchange(s), in the manner specified by the Board:

- a) imposition of fines;
- b) suspension of trading;
- c) freezing of promoter/promoter group holding of designated securities, as may be applicable in coordination with depositories;
- d) any other action as may be specified by the Board from time to time.

(2) The manner of revocation of actions specified in clauses (b) and (c) of sub-regulation (1), shall be in the manner specified by the Board.

#### Failure to pay fine

**298.** If the listed issuer fails to pay any fine imposed upon it by the recognised stock exchange(s), within the period as specified from time to time, the stock exchange may initiate such other action in accordance with the bye-laws of such Stock Exchange after giving a notice inwriting.

**Power to remove difficulty**

**299.** In order to remove any difficulties in the application or interpretation of these regulations, the Board may issue clarifications through guidance notes or circulars after recording reasons in writing.

**Power to relax strict enforcement of the regulations**

- 300.** (1) The Board may, in the interest of investors or for the development of the securities market, relax the strict enforcement of any requirement of these regulations, if the Board is satisfied that:
- a) the requirement is procedural in nature; or
  - b) any disclosure requirement is not relevant for a particular class of industry or issuer; or
  - c) the non-compliance was caused due to factors beyond the control of the issuer.
- (2) For seeking relaxation under sub-regulation (1), an application, giving details and the grounds on which, such relaxation has been sought, shall be filed with the Board.
- (3) The application referred to under sub-regulation (2) shall be accompanied by a non-refundable fee of rupees one lakh payable by way of direct credit in the bank account through NEFT/ RTGS/ IMPS or any other mode allowed by RBI or by way of a demand draft in favour of the Board payable in Mumbai.

**Repeal and Savings**

- 301.** (1) On and from the commencement of these regulations, the Securities and Exchange Board of India (Issue of Capital and Disclosure Requirements), Regulations 2009 shall stand rescinded.
- (2) Notwithstanding such rescission:
- a) anything done or any action taken or purported to have been done or taken including observation made in respect of any draft offer document, any enquiry or investigation commenced or show cause notice issued in respect of the said Regulations shall be deemed to have been done or taken under the corresponding provisions of these regulations.
  - b) any offer document, whether draft or otherwise, filed or application made to the Board under the said Regulations and pending before it shall be deemed to have been filed or made under the corresponding provisions of these regulations.



# SEBI (LODR) REGULATIONS, 2015



## CHAPTER I



### PRELIMINARY

#### Short title and commencement

1. (1) These regulations may be called the Securities and Exchange Board of India (Listing Obligations and Disclosure Requirements) Regulations, 2015.
- (2) They shall come into force on the ninetieth day from the date of their publication in the Official Gazette:

**Provided** that the provisions of sub-regulation (4) of regulation 23 and regulation 31A shall come into force on the date of notification of these regulations.

#### Definitions

2. (1) In these regulations, unless the context otherwise requires:—
  - (a) “Act” means the Securities and Exchange Board of India Act, 1992 (15 of 1992);
  - (b) “associate” shall mean any entity which is an associate under sub-section (6) of section 2 of the Companies Act, 2013 or under the applicable accounting standards:

**Provided that** this definition shall not be applicable for the units issued by mutual fund which are listed on a recognised stock exchange(s) for which the provisions of the Securities and Exchange Board of India (Mutual Funds) Regulations, 1996 shall be applicable;

- (c) "Board" means the Securities and Exchange Board of India established under section 3 of the Act;
- (d) "board of directors" or "board of trustees" shall mean the board of directors or board of trustees, whichever applicable, of the listed entity;
- (e) "chief executive officer" or "managing director" or "manager" shall mean the person so appointed in terms of the Companies Act, 2013;
- (f) "chief financial officer" or "whole time finance director" or "head of finance", by whatever name called, shall mean the person heading and discharging the finance function of the listed entity as disclosed by it to the recognised stock exchange(s) in its filing under these regulations;
- (g) "committee" shall mean committee of board of directors or any other committee so constituted;
- (h) "designated securities" means specified securities, non-convertible debt securities, non-convertible redeemable preference shares, perpetual debt instrument, perpetual non-cumulative preference shares, Indian depository receipts, securitised debt instruments, security receipts, units issued by mutual funds and any other securities as may be specified by the Board ;
- (i) "financial year" shall have the same meaning as assigned to it under sub-section (41) of section 2 of the Companies Act, 2013;
- (ia) "fugitive economic offender" shall mean an individual who is declared a fugitive economic offender under section 12 of the Fugitive Economic Offenders Act, 2018 (17 of 2018);
- (j) "global depository receipts" means global depository receipts as defined in subsection (44) of section 2 of the Companies Act, 2013;
- (k) "half year" means the period of six months commencing on the first day of April or October of a financial year;
- (l) "half yearly results" means the financial results prepared in accordance with these regulations in respect of a half year;
- (m) "holding company" means a holding company as defined in sub-section (46) of section 2 of the Companies Act, 2013;
- (n) 'Indian depository receipts' means Indian depository receipts as defined in sub-section (48) of section 2 of the Companies Act, 2013;
- (na) "Insolvency Code" means the Insolvency and Bankruptcy Code, 2016 [No. 31 of 2016]

- (o) "key managerial personnel" means key managerial personnel as defined in subsection (51) of section 2 of the Companies Act, 2013;
- (p) "listed entity" means an entity which has listed, on a recognised stock exchange(s), the designated securities issued by it or designated securities issued under schemes managed by it, in accordance with the listing agreement entered into between the entity and the recognised stock exchange(s);
- (q) "listing agreement" shall mean an agreement that is entered into between a recognised stock exchange and an entity, on the application of that entity to the recognised stock exchange, undertaking to comply with conditions for listing of designated securities;
- (r) "main board" means main board as defined in clause [(ee)] of sub-regulation (1) of regulation [2] of the [Securities and Exchange Board of India (Issue of Capital and Disclosure Requirements) Regulations, 2018];
- (s) "net worth" means net worth as defined in sub-section (57) of section 2 of the Companies Act, 2013;
- (t) 'non-convertible debt securities' which is 'debt securities' as defined under regulation 2(1)(e) of the Securities and Exchange Board of India (Issue and Listing of Debt Securities) Regulations, 2008;
- (u) 'non-convertible redeemable preference shares', 'perpetual debt instrument'/'innovative perpetual debt instrument' and 'perpetual noncumulative preference share' shall have the same meaning as assigned to them in the Securities and Exchange Board of India (Issue and Listing of Non-Convertible Redeemable Preference Shares) Regulations, 2013;
- (v) offer document" shall have the same meaning assigned to it under clause [(kk)] of sub-regulation (1) of regulation 2 of the [Securities and Exchange Board of India (Issue of Capital and Disclosure Requirements) Regulations, 2018], clause (j) of sub-regulation(1) of regulation 2 of the Securities and Exchange Board of India (Issue and Listing of Debt Securities) Regulations, 2008, clause (p) of sub- regulation (1) of regulation 2 of the Securities and Exchange Board of India (Issue and Listing of Non-Convertible Redeemable Preference Shares) Regulations, 2013, clause (r) of regulation 2 of the Securities and Exchange Board of India (Mutual Funds) Regulations, 1996 and clause (l) of sub-regulation (1) of regulation 2 of the [Securities and Exchange Board of India (Issue and Listing of Securitised Debt Instruments and Security Receipts) Regulations, 2008] , as may be applicable;

- (w) "promoter" and "promoter group" shall have the same meaning as assigned to them respectively in clauses (oo) and (pp) of sub-regulation (1) of regulation 2 of the Securities and Exchange Board of India (Issue of Capital and Disclosure Requirements) Regulations, 2018.
- (x) "public" means public as defined under clause (d) of rule 2 of the Securities Contracts (Regulation) Rules, 1957;
- (y) "public shareholding" means public shareholding as defined under clause (e) of rule 2 of the Securities Contracts (Regulation) Rules, 1957;
- (z) "quarter" means the period of three months commencing on the first day of April, July, October or January of a financial year;
- (za) "quarterly results" means the financial results prepared in accordance with these regulations in respect of a quarter;
- (zb) "related party" means a related party as defined under sub-section (76) of section 2 of the Companies Act, 2013 or under the applicable accounting standards:

**Provided that** any person or entity belonging to the promoter or promoter group of the listed entity and holding 20% or more of shareholding in the listed entity shall be deemed to be a related party.

**Provided further** that this definition shall not be applicable for the units issued by mutual funds which are listed on a recognised stock exchange(s);

- (zc) "related party transaction" means a transfer of resources, services or obligations between a listed entity and a related party, regardless of whether a price is charged and a "transaction" with a related party shall be construed to include a single transaction or a group of transactions in a contract:

**Provided that** this definition shall not be applicable for the units issued by mutual funds which are listed on a recognised stock exchange(s);

- (zd) "relative" means relative as defined under sub-section (77) of section 2 of the Companies Act, 2013 and rules prescribed there under:

**Provided this** definition shall not be applicable for the units issued by mutual fund which are listed on a recognised stock exchange(s);

- (ze) "schedule" means a schedule annexed to these regulations;
- (zf) "securities laws" means the Act, the Securities Contracts (Regulation) Act, 1956, the Depositories Act, 1996, and the provisions of the Companies Act, 1956 and Companies Act, 2013, and the rules, regulations, circulars or guidelines made thereunder.

- (zg) “securitized debt instruments” shall have the meaning assigned to it under the Securities and Exchange Board of India (Issue and Listing of Securitised Debt Instruments and Security Receipts) Regulations, 2008;
  - (zga) “security receipts” shall have the meaning assigned to it under the Securities and Exchange Board of India (Issue and Listing of Securitised Debt Instruments and Security Receipts) Regulations, 2008;
  - (zh) “servicer” means servicer as defined under clause(t) of sub-regulation (1) of regulation 2 of the Securities and Exchange Board of India (Issue and Listing of Securitised Debt Instruments and Security Receipts) Regulations, 2008;
  - (zi) "small and medium enterprises" or "SME" shall mean an entity which has issued specified securities in accordance with the provisions of Chapter IX of the Securities and Exchange Board of India (Issue of Capital and Disclosure Requirements) Regulations, 2018;
  - (zj) “SME Exchange” means an SME exchange as defined under clause (ddd) of sub-regulation (1) of regulation 2 of the Securities and Exchange Board of India (Issue of Capital and Disclosure Requirements) Regulations, 2018;
  - (zk) "stock exchange" means a recognised stock exchange as defined under clause (f) of section 2 of the Securities Contracts (Regulation) Act, 1956;
  - (zl) ‘specified securities’ means ‘equity shares’ and ‘convertible securities’ as defined under clause (eee) of sub-regulation (1) of regulation 2 of the Securities and Exchange Board of India (Issue of Capital and Disclosure Requirements) Regulations, 2018;
  - (zm) “subsidiary” means a subsidiary as defined under sub-section (87) of section 2 of the Companies Act, 2013;
  - (zn) “working days” means working days of the stock exchange where the securities of the entity are listed.
- (2) All other words and expressions used but not defined in these regulations, but defined in the Act or the Companies Act, 2013, the Securities Contracts (Regulation) Act, 1956, the Depositories Act, 1996 and/or the rules and regulations made thereunder shall have the same meaning as respectively assigned to them in such Acts or rules or regulations or any statutory modification or re-enactment thereto, as the case may be.

### **Applicability of the regulations**

3. (1) Unless otherwise provided, these regulations shall apply to a listed entity which has listed any of the following designated securities on recognised stock exchange(s):

- (a) specified securities listed on main board or SME Exchange or Innovators Growth Platform ;
  - (b) non-convertible debt securities, non-convertible redeemable preference shares, perpetual debt instrument, perpetual non-cumulative preference shares;
  - (c) Indian depository receipts;
  - (d) securitised debt instruments;
  - (da) security receipts;
  - (e) units issued by mutual funds;
  - (f) any other securities as may be specified by the Board.
- (2) The provisions of these regulations which become applicable to listed entities on the basis of market capitalisation criteria shall continue to apply to such entities even if they fall below such thresholds.

## CHAPTER II



### PRINCIPLES GOVERNING DISCLOSURES AND OBLIGATIONS OF LISTED ENTITY

#### Principles governing disclosures and obligations

4. (1) The listed entity which has listed securities shall make disclosures and abide by its obligations under these regulations, in accordance with the following principles:
- (a) Information shall be prepared and disclosed in accordance with applicable standards of accounting and financial disclosure.
  - (b) The listed entity shall implement the prescribed accounting standards in letter and spirit in the preparation of financial statements taking into consideration the interest of all stakeholders and shall also ensure that the annual audit is conducted by an independent, competent and qualified auditor.
  - (c) The listed entity shall refrain from misrepresentation and ensure that the information provided to recognised stock exchange(s) and investors is not misleading.
  - (d) The listed entity shall provide adequate and timely information to recognised stock exchange(s) and investors.

- (e) The listed entity shall ensure that disseminations made under provisions of these regulations and circulars made thereunder, are adequate, accurate, explicit, timely and presented in a simple language.
  - (f) Channels for disseminating information shall provide for equal, timely and cost efficient access to relevant information by investors.
  - (g) The listed entity shall abide by all the provisions of the applicable laws including the securities laws and also such other guidelines as may be issued from time to time by the Board and the recognised stock exchange(s) in this regard and as may be applicable.
  - (h) The listed entity shall make the specified disclosures and follow its obligations in letter and spirit taking into consideration the interest of all stakeholders.
  - (i) Filings, reports, statements, documents and information which are event based or are filed periodically shall contain relevant information.
  - (j) Periodic filings, reports, statements, documents and information reports shall contain information that shall enable investors to track the performance of a listed entity over regular intervals of time and shall provide sufficient information to enable investors to assess the current status of a listed entity.
- (2) The listed entity which has listed its specified securities shall comply with the corporate governance provisions as specified in chapter IV which shall be implemented in a manner so as to achieve the objectives of the principles as mentioned below.
- (a) **The rights of shareholders:** The listed entity shall seek to protect and facilitate the exercise of the following rights of shareholders:
    - (i) right to participate in, and to be sufficiently informed of, decisions concerning fundamental corporate changes.
    - (ii) opportunity to participate effectively and vote in general shareholder meetings.
    - (iii) being informed of the rules, including voting procedures that govern general shareholder meetings.
    - (iv) opportunity to ask questions to the board of directors, to place items on the agenda of general meetings, and to propose resolutions, subject to reasonable limitations.
    - (v) Effective shareholder participation in key corporate governance decisions, such as the nomination and election of members of board of directors.

- (vi) exercise of ownership rights by all shareholders, including institutional investors.
  - (vii) adequate mechanism to address the grievances of the shareholders.
  - (viii) protection of minority shareholders from abusive actions by, or in the interest of, controlling shareholders acting either directly or indirectly, and effective means of redress.
- (b) **Timely information:** The listed entity shall provide adequate and timely information to shareholders, including but not limited to the following:
- (i) sufficient and timely information concerning the date, location and agenda of general meetings, as well as full and timely information regarding the issues to be discussed at the meeting.
  - (ii) Capital structures and arrangements that enable certain shareholders to obtain a degree of control disproportionate to their equity ownership.
  - (iii) rights attached to all series and classes of shares, which shall be disclosed to investors before they acquire shares.
- (c) **Equitable treatment:** The listed entity shall ensure equitable treatment of all shareholders, including minority and foreign shareholders, in the following manner:
- (i) All shareholders of the same series of a class shall be treated equally.
  - (ii) Effective shareholder participation in key corporate governance decisions, such as the nomination and election of members of board of directors, shall be facilitated.
  - (iii) Exercise of voting rights by foreign shareholders shall be facilitated.
  - (iv) The listed entity shall devise a framework to avoid insider trading and abusive self-dealing.
  - (v) Processes and procedures for general shareholder meetings shall allow for equitable treatment of all shareholders.
  - (vi) Procedures of listed entity shall not make it unduly difficult or expensive to cast votes.
- (d) **Role of stakeholders in corporate governance:** The listed entity shall recognise the rights of its stakeholders and encourage co-operation between listed entity and the stakeholders, in the following manner:
- (i) The listed entity shall respect the rights of stakeholders that are established by law or through mutual agreements.

- (ii) Stakeholders shall have the opportunity to obtain effective redress for violation of their rights.
  - (iii) Stakeholders shall have access to relevant, sufficient and reliable information on a timely and regular basis to enable them to participate in corporate governance process.
  - (iv) The listed entity shall devise an effective vigil mechanism/whistle blower policy enabling stakeholders, including individual employees and their representative bodies, to freely communicate their concerns about illegal or unethical practices.
- (e) **Disclosure and transparency:** The listed entity shall ensure timely and accurate disclosure on all material matters including the financial situation, performance, ownership, and governance of the listed entity, in the following manner:
- (i) Information shall be prepared and disclosed in accordance with the prescribed standards of accounting, financial and non-financial disclosure.
  - (ii) Channels for disseminating information shall provide for equal, timely and cost efficient access to relevant information by users.
  - (iii) Minutes of the meeting shall be maintained explicitly recording dissenting opinions, if any.
- (f) **Responsibilities of the board of directors:** The board of directors of the listed entity shall have the following responsibilities:
- (i) **Disclosure of information:**
    - (1) Members of board of directors and key managerial personnel shall disclose to the board of directors whether they, directly, indirectly, or on behalf of third parties, have a material interest in any transaction or matter directly affecting the listed entity.
    - (2) The board of directors and senior management shall conduct themselves so as to meet the expectations of operational transparency to stakeholders while at the same time maintaining confidentiality of information in order to foster a culture of good decision-making.
  - (ii) **Key functions of the board of directors-**
    - (1) Reviewing and guiding corporate strategy, major plans of action, risk policy, annual budgets and business plans, setting performance objectives, monitoring implementation and

corporate performance, and overseeing major capital expenditures, acquisitions and divestments.

- (2) Monitoring the effectiveness of the listed entity's governance practices and making changes as needed.
- (3) Selecting, compensating, monitoring and, when necessary, replacing key managerial personnel and overseeing succession planning.
- (4) Aligning key managerial personnel and remuneration of board of directors with the longer term interests of the listed entity and its shareholders.
- (5) Ensuring a transparent nomination process to the board of directors with the diversity of thought, experience, knowledge, perspective and gender in the board of directors.
- (6) Monitoring and managing potential conflicts of interest of management, members of the board of directors and shareholders, including misuse of corporate assets and abuse in related party transactions.
- (7) Ensuring the integrity of the listed entity's accounting and financial reporting systems, including the independent audit, and that appropriate systems of control are in place, in particular, systems for risk management, financial and operational control, and compliance with the law and relevant standards.
- (8) Overseeing the process of disclosure and communications.
- (9) Monitoring and reviewing board of director's evaluation framework.

**(iii) Other responsibilities:**

- (1) The board of directors shall provide strategic guidance to the listed entity, ensure effective monitoring of the management and shall be accountable to the listed entity and the shareholders.
- (2) The board of directors shall set a corporate culture and the values by which executives throughout a group shall behave.
- (3) Members of the board of directors shall act on a fully informed basis, in good faith, with due diligence and care, and in the best interest of the listed entity and the shareholders.

- (4) The board of directors shall encourage continuing directors training to ensure that the members of board of directors are kept up to date.
- (5) Where decisions of the board of directors may affect different shareholder groups differently, the board of directors shall treat all shareholders fairly.
- (6) The board of directors shall maintain high ethical standards and shall take into account the interests of stakeholders.
- (7) The board of directors shall exercise objective independent judgement on corporate affairs.
- (8) The board of directors shall consider assigning a sufficient number of nonexecutive members of the board of directors capable of exercising independent judgement to tasks where there is a potential for conflict of interest.
- (9) The board of directors shall ensure that, while rightly encouraging positive thinking, these do not result in over-optimism that either leads to significant risks not being recognised or exposes the listed entity to excessive risk.
- (10) The board of directors shall have ability to 'step back' to assist executive management by challenging the assumptions underlying: strategy, strategic initiatives (such as acquisitions), risk appetite, exposures and the key areas of the listed entity's focus.
- (11) When committees of the board of directors are established, their mandate, composition and working procedures shall be well defined and disclosed by the board of directors.
- (12) Members of the board of directors shall be able to commit themselves effectively to their responsibilities.
- (13) In order to fulfil their responsibilities, members of the board of directors shall have access to accurate, relevant and timely information.
- (14) The board of directors and senior management shall facilitate the independent directors to perform their role effectively as a member of the board of directors and also a member of a committee of board of directors.

- (3) In case of any ambiguity or incongruity between the principles and relevant regulations, the principles specified in this Chapter shall prevail.

## CHAPTER III



### COMMON OBLIGATION OF LISTED ENTITIES

#### General obligation of compliance.

5. The listed entity shall ensure that key managerial personnel, directors, promoters or any other person dealing with the listed entity, complies with responsibilities or obligations, if any, assigned to them under these regulations.

#### Compliance Officer and his/her Obligations.

6. (1) A listed entity shall appoint a qualified company secretary as the compliance officer.
- (2) The compliance officer of the listed entity shall be responsible for-
- (a) ensuring conformity with the regulatory provisions applicable to the listed entity in letter and spirit.
  - (b) co-ordination with and reporting to the Board, recognised stock exchange(s) and depositories with respect to compliance with rules, regulations and other directives of these authorities in manner as specified from time to time.
  - (c) ensuring that the correct procedures have been followed that would result in the correctness, authenticity and comprehensiveness of the information, statements and reports filed by the listed entity under these regulations.
  - (d) monitoring email address of grievance redressal division as designated by the listed entity for the purpose of registering complaints by investors:

**Provided that** the requirements of this regulation shall not be applicable in the case of units issued by mutual funds which are listed on recognised stock exchange(s) but shall be governed by the provisions of the Securities and Exchange Board of India (Mutual Funds) Regulations, 1996.

#### Share Transfer Agent

7. (1) The listed entity shall appoint a share transfer agent or manage the share transfer facility in-house:

**Provided that**, in the case of in-house share transfer facility, as and when the total number of holders of securities of the listed entity exceeds one lakh, the listed entity shall either register with the Board as a Category II share transfer agent or appoint Registrar to an issue and share transfer agent registered with the Board.

- (2) The listed entity shall ensure that all activities in relation to 11 share transfer facility are maintained either in house or by Registrar to an issue and share transfer agent registered with the Board.
- (3) The listed entity shall submit a compliance certificate to the exchange, duly signed by both the compliance officer of the listed entity and the authorised representative of the share transfer agent, wherever applicable, within thirty days from the end of the financial year, certifying compliance with the requirements of sub- regulation (2).
- (4) In case of any change or appointment of a new share transfer agent, the listed entity shall enter into a tripartite agreement between the existing share transfer agent, the new share transfer agent and the listed entity, in the manner as specified by the Board from time to time:

**Provided that** in case the existing share transfer facility is managed in-house, the agreement referred above shall be entered into between the listed entity and the new share transfer agent.

- (5) The listed entity shall intimate such appointment, referred to in sub-regulation (4), to the stock exchange(s) within seven days of entering into the agreement.
- (6) The agreement referred to in sub-regulation (4) shall be placed in the subsequent meeting of the board of directors:

**Provided that** the requirements of this regulation shall not be applicable to the units issued by mutual funds that are listed on recognised stock exchange(s).

#### **Co-operation with intermediaries registered with the Board.**

8. The listed entity, wherever applicable, shall co-operate with and submit correct and adequate information to the intermediaries registered with the Board such as credit rating agencies, registrar to an issue and share transfer agents, debenture trustees etc., within timelines and procedures specified under the Act, regulations and circulars issued there under:

**Provided that** requirements of this regulation shall not be applicable to the units issued by mutual funds listed on a recognised stock exchange(s) for which the provisions of the Securities and Exchange Board of India (Mutual Funds) Regulations, 1996 shall be applicable.

#### **Preservation of documents.**

9. The listed entity shall have a policy for preservation of documents, approved by its board of directors, classifying them in at least two categories as follows-
  - (a) documents whose preservation shall be permanent in nature;

- (b) documents with preservation period of not less than eight years after completion of the relevant transactions:

**Provided that** the listed entity may keep documents specified in clauses (a) and (b) in electronic mode.

### **Filing of information**

10. (1) The listed entity shall file the reports, statements, documents, filings and any other information with the recognised stock exchange(s) on the electronic platform as specified by the Board or the recognised stock exchange(s).
- (2) The listed entity shall put in place infrastructure as required for compliance with sub-regulation (1).

### **Scheme of Arrangement**

11. The listed entity shall ensure that any scheme of arrangement /amalgamation /merger reconstruction /reduction of capital etc. to be presented to any Court or Tribunal does not in any way violate, override or limit the provisions of securities laws or requirements of the stock exchange(s):

**Provided that** this regulation shall not be applicable for the units issued by Mutual Fund which are listed on a recognised stock exchange(s).

### **Payment of dividend or interest or redemption or repayment**

12. The listed entity shall use any of the electronic mode of payment facility approved by the Reserve Bank of India, in the manner specified in Schedule I, for the payment of the following:
- (a) dividends;
- (b) Interest;
- (c) redemption or repayment amounts:

**Provided that** where it is not possible to use electronic mode of payment, 'payable-at-par' warrants or cheques may be issued:

**Provided further** that where the amount payable as dividend exceeds one thousand and five hundred rupees, the 'payable-at-par' warrants or cheques shall be sent by speed post.

### **Grievance Redressal Mechanism**

13. (1) The listed entity shall ensure that adequate steps are taken for expeditious redressal of investor complaints.
- (2) The listed entity shall ensure that it is registered on the SCORES platform or such other electronic platform or system of the Board as shall be mandated from time to

time, in order to handle investor complaints electronically in the manner specified by the Board.

- (3) The listed entity shall file with the recognised stock exchange(s) on a quarterly basis, within twenty one days from the end of each quarter, a statement giving the number of investor complaints pending at the beginning of the quarter, those received during the quarter, disposed of during the quarter and those remaining unresolved at the end of the quarter.
- (4) The statement as specified in sub-regulation (3) shall be placed, on quarterly basis, before the board of directors of the listed entity.

#### **Fees and other charges to be paid to the recognized stock exchange(s)**

14. The listed entity shall pay all such fees or charges, as applicable, to the recognised stock exchange(s), in the manner specified by the Board or the recognised stock exchange(s).

## **CHAPTER IV**



### **OBLIGATIONS OF LISTED ENTITY WHICH HAS LISTED ITS SPECIFIED SECURITIES**

#### **Applicability**

15. (1) The provisions of this chapter shall apply to a listed entity which has listed its specified securities on any recognised stock exchange(s) either on the main board or on SME Exchange or on Innovators Growth Platform :
- (2) The compliance with the corporate governance provisions as specified in regulations 17, 17A, 18, 19, 20, 21, 22, 23, 24, 24A, 25, 26, 27 and clauses (b) to (i) and (t) of sub-regulation (2) of regulation 46 and para C, D and E of Schedule V shall not apply, in respect of –
  - (a) a listed entity having paid up equity share capital not exceeding rupees ten crore and net worth not exceeding rupees twenty five crore, as on the last day of the previous financial year:

**Provided that** where the provisions of regulations 17 to 27, clauses (b) to (i) and (t) of sub-regulation (2) of regulation 46 and para C, D and E of Schedule V become applicable to a listed entity at a later date, it shall ensure compliance with the same within six months from such date:

**Provided further** that once the above regulations become applicable to a listed entity, they shall continue to remain applicable till such time the equity share capital or the net-worth of such entity reduces and remains below the specified threshold for a period of three consecutive financial years.

- (b) a listed entity which has listed its specified securities on the SME Exchange:
- Provided that** for other listed entities which are not companies, but body corporate or are subject to regulations under other statutes, the provisions of corporate governance provisions as specified in regulation 17, 17A, 18, 19, 20, 21, 22, 23, 24, 24A, 25, 26, 27 and clauses (b) to (i) of sub-regulation (2) of regulation 46 and para C, D and E of Schedule V shall apply to the extent that it does not violate their respective statutes and guidelines or directives issued by the relevant authorities.
- (2A) The provisions as specified in regulation 17 shall not be applicable during the insolvency resolution process period in respect of a listed entity which is undergoing corporate insolvency resolution process under the Insolvency Code:
- Provided that** the role and responsibilities of the board of directors as specified under regulation 17 shall be fulfilled by the interim resolution professional or resolution professional in accordance with sections 17 and 23 of the Insolvency Code.
- (2B) The provisions as specified in regulations 18, 19, 20 and 21 shall not be applicable during the insolvency resolution process period in respect of a listed entity which is undergoing corporate insolvency resolution process under the Insolvency Code:
- Provided that** the roles and responsibilities of the committees specified in the respective regulations shall be fulfilled by the interim resolution professional or resolution professional.

### Definitions

16. (1) For the purpose of this chapter, unless the context otherwise requires -
- (a) "control" shall have the same meaning as assigned to it under the Securities and Exchange Board of India (Substantial Acquisition of Shares and Takeovers) Regulations, 2011;
- (b) "independent director" means a non-executive director, other than a nominee director of the listed entity:
- (i) who, in the opinion of the board of directors, is a person of integrity and possesses relevant expertise and experience;
- (ii) who is or was not a promoter of the listed entity or its holding, subsidiary or associate company or member of the promoter group of the listed entity;

- (iii) who is not related to promoters or directors in the listed entity, its holding, subsidiary or associate company;
- (iv) who, apart from receiving director's remuneration, has or had no material pecuniary relationship with the listed entity, its holding, subsidiary or associate company, or their promoters, or directors, during the two immediately preceding financial years or during the current financial year;
- (v) none of whose relatives has or had pecuniary relationship or transaction with the listed entity, its holding, subsidiary or associate company, or their promoters, or directors, amounting to two per cent. or more of its gross turnover or total income or fifty lakh rupees or such higher amount as may be prescribed from time to time, whichever is lower, during the two immediately preceding financial years or during the current financial year;
- (vi) who, neither himself, nor whose relative(s) —
  - (A) holds or has held the position of a key managerial personnel or is or has been an employee of the listed entity or its holding, subsidiary or associate company in any of the three financial years immediately preceding the financial year in which he is proposed to be appointed;
  - (B) is or has been an employee or proprietor or a partner, in any of the three financial years immediately preceding the financial year in which he is proposed to be appointed, of —
    - (1) a firm of auditors or company secretaries in practice or cost auditors of the listed entity or its holding, subsidiary or associate company; or
    - (2) any legal or a consulting firm that has or had any transaction with the listed entity, its holding, subsidiary or associate company amounting to ten per cent or more of the gross turnover of such firm;
  - (C) holds together with his relatives two per cent or more of the total voting power of the listed entity; or
  - (D) is a chief executive or director, by whatever name called, of any nonprofit organisation that receives twenty-five per cent or more of its

- (E) is a material supplier, service provider or customer or a lessor or lessee of the listed entity;
  - (vii) who is not less than 21 years of age.
  - (viii) who is not a non-independent director of another company on the board of which any non-independent director of the listed entity is an independent director:
- (c) “material subsidiary” shall mean a subsidiary, whose income or net worth exceeds ten percent of the consolidated income or net worth respectively, of the listed entity and its subsidiaries in the immediately preceding accounting year.
- Explanation.- The listed entity shall formulate a policy for determining ‘material’ subsidiary.
- (d) “senior management” shall mean officers/personnel of the listed entity who are members of its core management team excluding board of directors and normally this shall comprise all members of management one level below the 20 “chief executive officer/managing director/whole time director/manager (including chief executive officer/manager, in case they are not part of the board) and shall specifically include company secretary and chief financial officer.

### Board of Directors

17. (1) The composition of board of directors of the listed entity shall be as follows:
- (a) board of directors shall have an optimum combination of executive and nonexecutive directors with at least one woman director and not less than fifty per cent. of the board of directors shall comprise of non-executive directors;
- Provided that** the Board of directors of the top 500 listed entities shall have at least one independent woman director by April 1, 2019 and the Board of directors of the top 1000 listed entities shall have at least one independent woman director by April 1, 2020;
- Explanation:** The top 500 and 1000 entities shall be determined on the basis of market capitalization, as at the end of the immediate previous financial year.
- (b) where the chairperson of the board of directors is a non-executive director, at least one-third of the board of directors shall comprise of independent directors and where the listed entity does not have a regular non-executive chairperson, at least half of the board of directors shall comprise of independent directors:

**Provided that** where the regular non-executive chairperson is a promoter of the listed entity or is related to any promoter or person occupying management positions at the level of board of director or at one level below the board of directors, at least half of the board of directors of the listed entity shall consist of independent directors.

**Explanation.** - For the purpose of this clause, the expression “related to any promoter” shall have the following meaning:

- (i) if the promoter is a listed entity, its directors other than the independent directors, its employees or its nominees shall be deemed to be related to it;
  - (ii) if the promoter is an unlisted entity, its directors, its employees or its nominees shall be deemed to be related to it.
- (c) The board of directors of the top 1000 listed entities (with effect from April 1, 2019) and the top 2000 listed entities (with effect from April 1, 2020) shall comprise of not less than six directors.

**Explanation:** The top 1000 and 2000 entities shall be determined on the basis of market capitalisation as at the end of the immediate previous financial year.

- (1A) No listed entity shall appoint a person or continue the directorship of any person as a non-executive director who has attained the age of seventy five years unless a special resolution is passed to that effect, in which case the explanatory statement annexed to the notice for such motion shall indicate the justification for appointing such a person.
- (1B) With effect from April 1, 2022, the top 500 listed entities shall ensure that the Chairperson of the board of such listed entity shall –
  - (a) be a non-executive director;
  - (b) not be related to the Managing Director or the Chief Executive Officer as per the definition of the term “relative” defined under the Companies Act, 2013:

**Provided that** this sub-regulation shall not be applicable to the listed entities which do not have any identifiable promoters as per the shareholding pattern filed with stock exchanges.

**Explanation** - The top 500 entities shall be determined on the basis of market capitalisation, as at the end of the immediate previous financial year.

- (2) The board of directors shall meet at least four times a year, with a maximum time gap of one hundred and twenty days between any two meetings.

- (2A) The quorum for every meeting of the board of directors of the top 1000 listed entities with effect from April 1, 2019 and of the top 2000 listed entities with effect from April 1, 2020 shall be one-third of its total strength or three directors, whichever is higher, including at least one independent director.

**Explanation I** – For removal of doubts, it is clarified that the participation of the directors by video conferencing or by other audio-visual means shall also be counted for the purposes of such quorum.

**Explanation II** - The top 1000 and 2000 entities shall be determined on the basis of market capitalisation, as at the end of the immediate previous financial year.

- (3) The board of directors shall periodically review compliance reports pertaining to all laws applicable to the listed entity, prepared by the listed entity as well as steps taken by the listed entity to rectify instances of non-compliances.
- (4) The board of directors of the listed entity shall satisfy itself that plans are in place for orderly succession for appointment to the board of directors and senior management.
- (5) (a) The board of directors shall lay down a code of conduct for all members of board of directors and senior management of the listed entity.
- (b) The code of conduct shall suitably incorporate the duties of independent directors as laid down in the Companies Act, 2013.
- (6) (a) The board of directors shall recommend all fees or compensation, if any, paid to non-executive directors, including independent directors and shall require approval of shareholders in general meeting.
- (b) The requirement of obtaining approval of shareholders in general meeting shall not apply to payment of sitting fees to non-executive directors, if made within the limits prescribed under the Companies Act, 2013 for payment of sitting fees without approval of the Central Government.
- (c) The approval of shareholders mentioned in clause (a), shall specify the limits for the maximum number of stock options that may be granted to non-executive directors, in any financial year and in aggregate.
- (ca) The approval of shareholders by special resolution shall be obtained every year, in which the annual remuneration payable to a single non-executive director exceeds fifty per cent of the total annual remuneration payable to all non-executive directors, giving details of the remuneration thereof.
- (d) Independent directors shall not be entitled to any stock option.

- (e) The fees or compensation payable to executive directors who are promoters or members of the promoter group, shall be subject to the approval of the shareholders by special resolution in general meeting, if-
- (i) the annual remuneration payable to such executive director exceeds rupees 5 crore or 2.5 per cent of the net profits of the listed entity, whichever is higher; or
  - (ii) where there is more than one such director, the aggregate annual remuneration to such directors exceeds 5 per cent of the net profits of the listed entity:

**Provided that** the approval of the shareholders under this provision shall be valid only till the expiry of the term of such director.

**Explanation:** For the purposes of this clause, net profits shall be calculated as per section 198 of the Companies Act, 2013.

- (7) The minimum information to be placed before the board of directors is specified in **Part A of Schedule II**.
- (8) The chief executive officer and the chief financial officer shall provide the compliance certificate to the board of directors as specified in Part B of Schedule II.
- (9) (a) The listed entity shall lay down procedures to inform members of board of directors about risk assessment and minimization procedures.
- (b) The board of directors shall be responsible for framing, implementing and monitoring the risk management plan for the listed entity.
- (10) The evaluation of independent directors shall be done by the entire board of directors which shall include -
- (a) performance of the directors; and
  - (b) fulfillment of the independence criteria as specified in these regulations and their independence from the management:

**Provided that** in the above evaluation, the directors who are subject to evaluation shall not participate.

- (11). The statement to be annexed to the notice as referred to in sub-section (1) of section 102 of the Companies Act, 2013 for each item of special business to be transacted at a general meeting shall also set forth clearly the recommendation of the board to the shareholders on each of the specific items.

**Maximum number of directorships**

**17A.** The directors of listed entities shall comply with the following conditions with respect to the maximum number of directorships, including any alternate directorships that can be held by them at any point of time -

- (1) A person shall not be a director in more than eight listed entities with effect from April 1, 2019 and in not more than seven listed entities with effect from April 1, 2020:

**Provided that** a person shall not serve as an independent director in more than seven listed entities.

- (2) Notwithstanding the above, any person who is serving as a whole time director / managing director in any listed entity shall serve as an independent director in not more than three listed entities.

**Explanation –** For the purpose of this regulation, the count for the number of listed entities on which a person is a director / independent director shall be only those whose equity shares are listed on a stock exchange.

**Audit Committee.**

**18.** (1) Every listed entity shall constitute a qualified and independent audit committee in accordance with the terms of reference, subject to the following:

- (a) The audit committee shall have minimum three directors as members.
- (b) Two-thirds of the members of audit committee shall be independent directors [and in case of a listed entity having outstanding SR equity shares, the audit committee shall only comprise of independent directors].
- (c) All members of audit committee shall be financially literate and at least one member shall have accounting or related financial management expertise.

**Explanation (1) -** For the purpose of this regulation, “financially literate” shall mean the ability to read and understand basic financial statements i.e. balance sheet, profit and loss account, and statement of cash flows.

**Explanation (2) -** For the purpose of this regulation , a member shall be considered to have accounting or related financial management expertise if he or she possesses experience in finance or accounting, or requisite professional certification in accounting, or any other comparable experience or background which results in the individual's financial sophistication, including being or having been a chief executive officer, chief financial officer or other senior officer with financial oversight responsibilities.

- (d) The chairperson of the audit committee shall be an independent director and he/she shall be present at Annual general meeting to answer shareholder queries.
  - (e) The Company Secretary shall act as the secretary to the audit committee.
  - (f) The audit committee at its discretion shall invite the finance director or head of the finance function, head of internal audit and a representative of the statutory auditor and any other such executives to be present at the meetings of the committee:  
**Provided that** occasionally the audit committee may meet without the presence of any executives of the listed entity.
- (2) The listed entity shall conduct the meetings of the audit committee in the following manner:
- (a) The audit committee shall meet at least four times in a year and not more than one hundred and twenty days shall elapse between two meetings.
  - (b) The quorum for audit committee meeting shall either be two members or one third of the members of the audit committee, whichever is greater, with at least two independent directors.
  - (c) The audit committee shall have powers to investigate any activity within its terms of reference, seek information from any employee, obtain outside legal or other professional advice and secure attendance of outsiders with relevant expertise, if it considers necessary.
- (3) The role of the audit committee and the information to be reviewed by the audit committee shall be as specified in Part C of Schedule II.

#### **Nomination and remuneration committee**

19. (1) The board of directors shall constitute the nomination and remuneration committee as follows:
- (a) the committee shall comprise of at least three directors;
  - (b) all directors of the committee shall be non-executive directors; and
  - (c) at least fifty percent of the directors shall be independent directors.
- (2) The Chairperson of the nomination and remuneration committee shall be an independent director:
- Provided that** the chairperson of the listed entity, whether executive or non-executive, may be appointed as a member of the Nomination and Remuneration Committee and shall not chair such Committee.

- (2A) The quorum for a meeting of the nomination and remuneration committee shall be either two members or one third of the members of the committee, whichever is greater, including at least one independent director in attendance.
- (3) The Chairperson of the nomination and remuneration committee may be present at the annual general meeting, to answer the shareholders' queries; however, it shall be up to the chairperson to decide who shall answer the queries.
- (3A) The nomination and remuneration committee shall meet at least once in a year
- (4) The role of the nomination and remuneration committee shall be as specified as in Part D of the Schedule II.

### **Stakeholders Relationship Committee**

20. (1) The listed entity shall constitute a Stakeholders Relationship Committee to specifically look into various aspects of interest of shareholders, debenture holders and other security holders.
- (2) The chairperson of this committee shall be a non-executive director.
- (2A) At least three directors, with at least one being an independent director, shall be members of the Committee [and in case of a listed entity having outstanding SR equity shares, at least two thirds of the Stakeholders Relationship Committee shall comprise of independent directors].
- (3) The Chairperson of the Stakeholders Relationship Committee shall be present at the annual general meetings to answer queries of the security holders.
- (3A) The stakeholders relationship committee shall meet at least once in a year.
- (4) The role of the Stakeholders Relationship Committee shall be as specified as in **Part D of the Schedule II.**

### **Risk Management Committee**

21. (1) The board of directors shall constitute a Risk Management Committee.
- (2) The Risk Management Committee shall have minimum three members with majority of them being members of the board of directors, including at least one independent director and in case of a listed entity having outstanding SR equity shares, at least two thirds of the Risk Management Committee shall comprise independent directors.
- (3) The Chairperson of the Risk management committee shall be a member of the board of directors and senior executives of the listed entity may be members of the committee.
- (3A) The risk management committee shall meet at least twice in a year.

- (3B) The quorum for a meeting of the Risk Management Committee shall be either two members or one third of the members of the committee, whichever is higher, including at least one member of the board of directors in attendance.
- (3C) The meetings of the risk management committee shall be conducted in such a manner that on a continuous basis not more than one hundred and eighty days shall elapse between any two consecutive meetings.
- (4) The board of directors shall define the role and responsibility of the Risk Management Committee and may delegate monitoring and reviewing of the risk management plan to the committee and such other functions as it may deem fit such function shall specifically cover cyber security.

Provided that the role and responsibilities of the Risk Management Committee shall mandatorily include the performance of functions specified in Part D of Schedule II.

- (5) The provisions of this regulation shall be applicable to top 1000 listed entities determined on the basis of market capitalisation, as at the end of the immediate previous financial year.
- (6) The Risk Management Committee shall have powers to seek information from any employee, obtain outside legal or other professional advice and secure attendance of outsiders with relevant expertise, if it considers necessary.

#### **Vigil mechanism**

- 22. (1) The listed entity shall formulate a vigil mechanism /whistle blower policy for directors and employees to report genuine concerns.
- (2) The vigil mechanism shall provide for adequate safeguards against victimization of director(s) or employee(s) or any other person who avail the mechanism and also provide for direct access to the chairperson of the audit committee in appropriate or exceptional cases.

#### **Related party transactions**

- 23. (1) The listed entity shall formulate a policy on materiality of related party transactions and on dealing with related party transactions including clear threshold limits duly approved by the board of directors and such policy shall be reviewed by the board of directors at least once every three years and updated accordingly:

**Explanation** - A transaction with a related party shall be considered material if the transaction(s) to be entered into individually or taken together with previous transactions during a financial year, exceeds ten percent of the annual consolidated turnover of the listed entity as per the last audited financial statements of the listed entity.

- (1A) Notwithstanding the above, with effect from July 01, 2019 a transaction involving payments made to a related party with respect to brand usage or royalty shall be considered material if the transaction(s) to be entered into individually or taken together with previous transactions during a financial year, exceed two percent of the annual consolidated turnover of the listed entity as per the last audited financial statements of the listed entity.
- (2) All related party transactions shall require prior approval of the audit committee.
- (3) Audit committee may grant omnibus approval for related party transactions proposed to be entered into by the listed entity subject to the following conditions, namely-
- (a) the audit committee shall lay down the criteria for granting the omnibus approval in line with the policy on related party transactions of the listed entity and such approval shall be applicable in respect of transactions which are repetitive in nature;
  - (b) the audit committee shall satisfy itself regarding the need for such omnibus approval and that such approval is in the interest of the listed entity;
  - (c) the omnibus approval shall specify:
    - (i) the name(s) of the related party, nature of transaction, period of transaction, maximum amount of transactions that shall be entered into,
    - (ii) the indicative base price / current contracted price and the formula for variation in the price if any; and
    - (iii) such other conditions as the audit committee may deem fit:
- Provided that** where the need for related party transaction cannot be foreseen and aforesaid details are not available, audit committee may grant omnibus approval for such transactions subject to their value not exceeding rupees one crore per transaction.
- (d) the audit committee shall review, at least on a quarterly basis, the details of related party transactions entered into by the listed entity pursuant to each of the omnibus approvals given.
  - (e) Such omnibus approvals shall be valid for a period not exceeding one year and shall require fresh approvals after the expiry of one year:
- (4) All material related party transactions shall require approval of the shareholders through resolution and no related party shall vote to approve such resolutions whether the entity is a related party to the particular transaction or not:

**Provided that** the requirements specified under this sub-regulation shall not apply in respect of a resolution plan approved under section 31 of the Insolvency Code, subject to

- (5) The provisions of sub-regulations (2), (3) and (4) shall not be applicable in the following cases:
- (a) transactions entered into between two government companies;
  - (b) transactions entered into between a holding company and its wholly owned subsidiary whose accounts are consolidated with such holding company and placed before the shareholders at the general meeting for approval.

**Explanation.** - For the purpose of clause (a), "government company(ies)" means Government company as defined in sub-section (45) of section 2 of the Companies Act, 2013.

- (6) The provisions of this regulation shall be applicable to all prospective transactions.
- (7) For the purpose of this regulation, all entities falling under the definition of related parties shall not vote to approve the relevant transaction irrespective of whether the entity is a party to the particular transaction or not.
- (8) All existing material related party contracts or arrangements entered into prior to the date of notification of these regulations and which may continue beyond such date shall be placed for approval of the shareholders in the first General Meeting subsequent to notification of these regulations.
- (9) The listed entity shall submit within 30 days from the date of publication of its standalone and consolidated financial results for the half year, disclosures of related party transactions on a consolidated basis, in the format specified in the relevant accounting standards for annual results to the stock exchanges and publish the same on its website.

#### **Corporate governance requirements with respect to subsidiary of listed entity**

24. (1) At least one independent director on the board of directors of the listed entity shall be a director on the board of directors of an unlisted material subsidiary, whether incorporated in India or not.

**Explanation** - For the purposes of this provision, notwithstanding anything to the contrary contained in regulation 16, the term "material subsidiary" shall mean a subsidiary, whose income or net worth exceeds twenty percent of the consolidated income or net worth respectively, of the listed entity and its subsidiaries in the immediately preceding accounting year.

- (2) The audit committee of the listed entity shall also review the financial statements, in particular, the investments made by the unlisted subsidiary.

- (3) The minutes of the meetings of the board of directors of the unlisted subsidiary shall be placed at the meeting of the board of directors of the listed entity.
- (4) The management of the unlisted subsidiary shall periodically bring to the notice of the board of directors of the listed entity, a statement of all significant transactions and arrangements entered into by the unlisted subsidiary.

**Explanation** - For the purpose of this regulation, the term “significant transaction or arrangement” shall mean any individual transaction or arrangement that exceeds or is likely to exceed ten percent of the total revenues or total expenses or total assets or total liabilities, as the case may be, of the unlisted subsidiary for the immediately preceding accounting year.

- (5) A listed entity shall not dispose of shares in its material subsidiary resulting in reduction of its shareholding (either on its own or together with other subsidiaries) to less than or equal to fifty percent or cease the exercise of control over the subsidiary without passing a special resolution in its General Meeting except in cases where such divestment is made under a scheme of arrangement duly approved by a Court/Tribunal or under a resolution plan duly approved under section 31 of the Insolvency Code and such an event is disclosed to the recognized stock exchanges within one day of the resolution plan being approved.
- (6) Selling, disposing and leasing of assets amounting to more than twenty percent of the assets of the material subsidiary on an aggregate basis during a financial year shall require prior approval of shareholders by way of special resolution, unless the sale/disposal/lease is made under a scheme of arrangement duly approved by a Court/Tribunal or under a resolution plan duly approved under section 31 of the Insolvency Code and such an event is disclosed to the recognized stock exchanges within one day of the resolution plan being approved.
- (7) Where a listed entity has a listed subsidiary, which is itself a holding company, the provisions of this regulation shall apply to the listed subsidiary in so far as its subsidiaries are concerned.

### **Secretarial Audit and Secretarial Compliance Report**

- 24A.** (1) Every listed entity and its material unlisted subsidiaries incorporated in India shall undertake secretarial audit and shall annex a secretarial audit report given by a company secretary in practice, in such form as specified, with the annual report of the listed entity.
- (2) Every listed entity shall submit a secretarial compliance report in such form as specified, to stock exchanges, within sixty days from end of each financial year.

**Obligations with respect to independent directors**

25. (1) No person shall be appointed or continue as an alternate director for an independent director of a listed entity with effect from October 1, 2018.
- (2) The maximum tenure of independent directors shall be in accordance with the Companies Act, 2013 and rules made thereunder, in this regard, from time to time.
- (3) The independent directors of the listed entity shall hold at least one meeting in a financial year, without the presence of non-independent directors and members of the management and all the independent directors shall strive to be present at such meeting.
- (4) The independent directors in the meeting referred in sub-regulation (3) shall, inter alia-
- (a) review the performance of non-independent directors and the board of directors as a whole;
  - (b) review the performance of the chairperson of the listed entity, taking into account the views of executive directors and non-executive directors;
  - (c) assess the quality, quantity and timeliness of flow of information between the management of the listed entity and the board of directors that is necessary for the board of directors to effectively and reasonably perform their duties.
- (5) An independent director shall be held liable, only in respect of such acts of omission or commission by the listed entity which had occurred with his/her knowledge, attributable through processes of board of directors, and with his/her consent or connivance or where he/she had not acted diligently with respect to the provisions contained in these regulations.
- (6) An independent director who resigns or is removed from the board of directors of the listed entity shall be replaced by a new independent director by listed entity at the earliest but not later than the immediate next meeting of the board of directors or three months from the date of such vacancy, whichever is later:
- Provided that** where the listed entity fulfils the requirement of independent directors in its board of directors without filling the vacancy created by such resignation or removal, the requirement of replacement by a new independent director shall not apply.
- (7) The listed entity shall familiarize the independent directors through various programmes about the listed entity, including the following:
- (a) nature of the industry in which the listed entity operates;
  - (b) business model of the listed entity;

- (c) roles, rights, responsibilities of independent directors; and
  - (d) any other relevant information.
- (8) Every independent director shall, at the first meeting of the board in which he participates as a director and thereafter at the first meeting of the board in every financial year or whenever there is any change in the circumstances which may affect his status as an independent director, submit a declaration that he meets the criteria of independence as
- Provided** in clause (b) of sub-regulation (1) of regulation 16 and that he is not aware of any circumstance or situation, which exist or may be reasonably anticipated, that could impair or impact his ability to discharge his duties with an objective independent judgment and without any external influence.
- (9) The board of directors of the listed entity shall take on record the declaration and confirmation submitted by the independent director under sub-regulation (8) after undertaking due assessment of the veracity of the same.
- (10) With effect from October 1, 2018, the top 500 listed entities by market capitalization calculated as on March 31 of the preceding financial year, shall undertake Directors and Officers insurance ('D and O insurance') for all their independent directors of such quantum and for such risks as may be determined by its board of directors.

**Obligations with respect to employees including senior management, key managerial persons, directors and promoters.**

26. (1) A director shall not be a member in more than ten committees or act as chairperson of more than five committees across all listed entities in which he/she is a director which shall be determined as follows:
- (a) the limit of the committees on which a director may serve in all public limited companies, whether listed or not, shall be included and all other companies including private limited companies, foreign companies and companies under Section 8 of the Companies Act, 2013 shall be excluded;
  - (b) for the purpose of determination of limit, chairpersonship and membership of the audit committee and the Stakeholders' Relationship Committee alone shall be considered.
- (2) Every director shall inform the listed entity about the committee positions he or she occupies in other listed entities and notify changes as and when they take place.
- (3) All members of the board of directors and senior management personnel shall affirm compliance with the code of conduct of board of directors and senior management on an annual basis.

- (4) Senior management shall make disclosures to the board of directors relating to all material, financial and commercial transactions, where they have personal interest that may have a potential conflict with the interest of the listed entity at large.

**Explanation.-** For the purpose of this sub-regulation, conflict of interest relates to dealing in the shares of listed entity, commercial dealings with bodies, which have shareholding of management and their relatives etc.

- (5) No employee including key managerial personnel or director or promoter of a listed entity shall enter into any agreement for himself/herself or on behalf of any other person, with any shareholder or any other third party with regard to compensation or profit sharing in connection with dealings in the securities of such listed entity, unless prior approval for the same has been obtained from the Board of Directors as well as public shareholders by way of an ordinary resolution:

**Provided that** such agreement, if any, whether subsisting or expired, entered during the preceding three years from the date of coming into force of this sub-regulation, shall be disclosed to the stock exchanges for public dissemination:

**Provided further** that subsisting agreement, if any, as on the date of coming into force of this sub-regulation shall be placed for approval before the Board of Directors in the forthcoming Board meeting:

**Provided further** that if the Board of Directors approve such agreement, the same shall be placed before the public shareholders for approval by way of an ordinary resolution in the forthcoming general meeting:

**Provided further** that all interested persons involved in the transaction covered under the agreement shall abstain from voting in the general meeting.

**Explanation -** For the purposes of this sub-regulation, 'interested person' shall mean any person holding voting rights in the listed entity and who is in any manner, whether directly or indirectly, interested in an agreement or proposed agreement, entered into or to be entered into by such a person or by any employee or key managerial personnel or director or promoter of such listed entity with any shareholder or any other third party with respect to compensation or profit sharing in connection with the securities of such listed entity.

#### **Other corporate governance requirements**

27. (1) The listed entity may, at its discretion, comply with requirements as specified in Part E of Schedule II.
- (2) (a) The listed entity shall submit a quarterly compliance report on corporate governance in the format as specified by the Board from time to time to the

recognised stock exchange(s) within twenty one days from the end of each quarter.

- (b) Details of all material transactions with related parties shall be disclosed along with the report mentioned in clause (a) of sub-regulation (2).
- (c) The report mentioned in clause (a) of sub-regulation (2) shall be signed either by the compliance officer or the chief executive officer of the listed entity.

#### **In-principle approval of recognized stock exchange(s)**

28. (1) The listed entity, before issuing securities, shall obtain an 'in-principle' approval from recognised stock exchange(s) in the following manner:
- (a) where the securities are listed only on recognised stock exchange(s) having nationwide trading terminals, from all such stock exchange(s);
  - (b) where the securities are not listed on any recognised stock exchange having nationwide trading terminals, from all the stock exchange(s) in which the securities of the issuer are proposed to be listed;
  - (c) where the securities are listed on recognised stock exchange(s) having nationwide trading terminals as well as on the recognised stock exchange(s) not having nationwide trading terminals, from all recognised stock exchange(s) having nationwide trading terminals:
- (2) The requirement of obtaining in-principle approval from recognised stock exchange(s), shall not be applicable for securities issued pursuant to the scheme of arrangement for which the listed entity has already obtained No-Objection Letter from recognised stock exchange(s) in accordance with regulation 37.

#### **Prior Intimations**

29. (1) The listed entity shall give prior intimation to stock exchange about the meeting of the board of directors in which any of the following proposals is due to be considered:
- (a) financial results viz. quarterly, half yearly, or annual, as the case may be;
  - (b) proposal for buyback of securities;
  - (c) proposal for voluntary delisting by the listed entity from the stock exchange(s);
  - (d) fund raising by way of further public offer, rights issue, American Depository Receipts/Global Depository Receipts/Foreign Currency Convertible Bonds, qualified institutions placement, debt issue, preferential issue or any other method and for determination of issue price:

**Provided that** intimation shall also be given in case of any annual general meeting or extraordinary general meeting or postal ballot that is proposed to be held for obtaining shareholder approval for further fund raising indicating type of issuance.

- (e) declaration/ recommendation of dividend, issue of convertible securities including convertible debentures or of debentures carrying a right to subscribe to equity shares or the passing over of dividend.
  - (f) the proposal for declaration of bonus securities.
- (2) The intimation required under sub-regulation (1), shall be given at least two working days in advance, excluding the date of the intimation and date of the meeting:

**Provided that** intimation regarding item specified in clause (a) of sub-regulation (1), to be discussed at the meeting of board of directors shall be given at least five days in advance (excluding the date of the intimation and date of the meeting), and such intimation shall include the date of such meeting of board of directors.

- (3) The listed entity shall give intimation to the stock exchange(s) at least eleven working days before any of the following proposal is placed before the board of directors -
- (a) any alteration in the form or nature of any of its securities that are listed on the stock exchange or in the rights or privileges of the holders thereof.
  - (b) any alteration in the date on which, the interest on debentures or bonds, or the redemption amount of redeemable shares or of debentures or bonds, shall be payable.

#### **Disclosure of events or information**

30. (1) Every listed entity shall make disclosures of any events or information which, in the opinion of the board of directors of the listed company, is material.
- (2) Events specified in Para A of Part A of Schedule III are deemed to be material events and listed entity shall make disclosure of such events.
- (3) The listed entity shall make disclosure of events specified in Para B of Part A of Schedule III, based on application of the guidelines for materiality, as specified in sub-regulation (4).
- (4) (i) The listed entity shall consider the following criteria for determination of materiality of events/ information:
- (a) the omission of an event or information, which is likely to result in discontinuity or alteration of event or information already available publicly; or

- (b) the omission of an event or information is likely to result in significant market reaction if the said omission came to light at a later date;
  - (c) In case where the criteria specified in sub-clauses (a) and (b) are not applicable, an event/information may be treated as being material if in the opinion of the board of directors of listed entity, the event / information is considered material.
- (ii) The listed entity shall frame a policy for determination of materiality, based on criteria specified in this sub-regulation, duly approved by its board of directors, which shall be disclosed on its website.
- (5) The board of directors of the listed entity shall authorize one or more Key Managerial Personnel for the purpose of determining materiality of an event or information and for the purpose of making disclosures to stock exchange(s) under this regulation and the contact details of such personnel shall be also disclosed to the stock exchange(s) and as well as on the listed entity's website.
- (6) The listed entity shall first disclose to stock exchange(s) of all events, as specified in Part A of Schedule III, or information as soon as reasonably possible and not later than twenty four hours from the occurrence of event or information:

**Provided that** in case the disclosure is made after twenty four hours of occurrence of the event or information, the listed entity shall, along with such disclosures provide explanation for delay:

**Provided further** that disclosure with respect to events specified in sub-para 4 of Para A of Part A of Schedule III shall be made within the timelines specified therein.

- (7) The listed entity shall, with respect to disclosures referred to in this regulation, make disclosures updating material developments on a regular basis, till such time the event is resolved/closed, with relevant explanations.
- (8) The listed entity shall disclose on its website all such events or information which has been disclosed to stock exchange(s) under this regulation and such disclosures shall be hosted on the website of the listed entity for a minimum period of five years and thereafter as per the archival policy of the listed entity, as disclosed on its website.
- (9) The listed entity shall disclose all events or information with respect to subsidiaries which are material for the listed entity.
- (10) The listed entity shall provide specific and adequate reply to all queries raised by stock exchange(s) with respect to any events or information:

**Provided that** the stock exchange(s) shall disseminate information and clarification as soon as reasonably practicable.

- (11) The listed entity may on its own initiative also, confirm or deny any reported event or information to stock exchange(s).
- (12) In case where an event occurs or an information is available with the listed entity, which has not been indicated in Para A or B of Part A of Schedule III, but which may have material effect on it, the listed entity is required to make adequate disclosures in regard thereof.

#### **Holding of specified securities and shareholding pattern.**

- 31.** (1) The listed entity shall submit to the stock exchange(s) a statement showing holding of securities and shareholding pattern separately for each class of securities, in the format specified by the Board from time to time within the following timelines -
- (a) one day prior to listing of its securities on the stock exchange(s);
  - (b) on a quarterly basis, within twenty one days from the end of each quarter; and,
  - (c) within ten days of any capital restructuring of the listed entity resulting in a change exceeding two per cent of the total paid-up share capital:

**Provided that** in case of listed entities which have listed their specified securities on SME Exchange, the above statements shall be submitted on a half yearly basis within twenty one days from the end of each half year.

- (2) The listed entity shall ensure that hundred percent of shareholding of promoter(s) and promoter group is in dematerialized form and the same is maintained on a continuous basis in the manner as specified by the Board.
- (3) The listed entity shall comply with circulars or directions issued by the Board from time to time with respect to maintenance of shareholding in dematerialized form.
- (4) All entities falling under promoter and promoter group shall be disclosed separately in the shareholding pattern appearing on the website of all stock exchanges having nationwide trading terminals where the specified securities of the entity are listed, in accordance with the formats specified by the Board.

#### **Conditions for re-classification of any person as promoter / public**

- 31A.** (1) For the purpose of this regulation:
- (a) “promoter(s) seeking re-classification” shall mean all such promoters/persons belonging to the promoter group seeking re-classification of status as public.
  - (b) “persons related to the promoter(s) seeking re-classification” shall mean such persons with respect to that promoter(s) seeking re-classification who fall under sub-clauses (ii), (iii) and (iv) of clause (pp) of sub-regulation (1) of

regulation 2 of Securities and Exchange Board of India (Issue of Capital and Disclosure Requirements) Regulations, 2018.

- (2) Re-classification of the status of any person as a promoter or public shall be permitted by the stock exchanges only upon receipt of an application from the listed entity along with all relevant documents subject to compliance with conditions specified in these regulations;

**Provided that** in case of entities listed on more than one stock exchange, the concerned stock exchanges shall jointly decide on the application.

- (3) Reclassification of status of a promoter to public shall be permitted by the stock exchanges only upon satisfaction of the following conditions:

- (a) an application for reclassification has been made by the listed entity to the stock exchanges within thirty days from the date of approval by shareholders in general meeting after ensuring that the following procedural requirements have been fulfilled:

- (i) the promoter(s) seeking reclassification has made a request for reclassification to the listed entity along with a rationale for the same and a description as to how the conditions specified in clause (b) of sub-regulation (3) of this regulation are satisfied;

- (ii) the board of directors of the listed entity has analyzed such request in the immediately next board meeting or within three months from the date of receipt of the request from its promoter(s), whichever is earlier and has placed the same before the shareholders in a general meeting for approval along with the views of the board of directors on the request:

**Provided that** there shall be a time gap of at least one month but not exceeding three months between the dates of the board meeting and the shareholders' meeting considering the request of the promoter(s) seeking reclassification.

- (iii) the request of the promoter(s) seeking reclassification has been approved in the general meeting by an ordinary resolution in which the promoter(s) seeking reclassification and the persons related to him/her/it have not voted to approve such reclassification request:

**Provided that** the provisions of this sub-clause shall not apply in cases:

- a. where the promoter(s) seeking reclassification and persons related to the promoter(s) seeking reclassification, together, do

- not hold more than one percent of the total voting rights in the listed entity;
- b. where reclassification is pursuant to a divorce.
- (b) the promoter(s) seeking re-classification and persons related to the promoter(s) seeking re-classification shall not:
- (i) together, hold more than ten percent of the total voting rights in the listed entity;
  - (ii) exercise control over the affairs of the listed entity directly or indirectly;
  - (iii) have any special rights with respect to the listed entity through formal or informal arrangements including through any shareholder agreements;
  - (iv) be represented on the board of directors (including not having a nominee director) of the listed entity;
  - (v) act as a key managerial person in the listed entity;
  - (vi) be a 'wilful defaulter' as per the Reserve Bank of India Guidelines;
  - (vii) be a fugitive economic offender.
- (c) the listed entity shall:
- (i) be compliant with the requirement for minimum public shareholding as required under regulation 38 of these regulations;
  - (ii) not have trading in its shares suspended by the stock exchanges;
  - (iii) not have any outstanding dues to the Board, the stock exchanges or the depositories.
- (4) The promoter(s) seeking re-classification, subsequent to re-classification as public, shall comply with the following conditions:
- (a) he/she shall continue to comply with conditions mentioned at sub-clauses (i), (ii) and (iii) of clause (b) of sub-regulation 3 as specified above at all times from the date of such re-classification failing which, he shall automatically be reclassified as promoter/ persons belonging to promoter group, as applicable;
  - (b) he/she shall comply with conditions mentioned at sub-clauses (iv) and (v) of clause (b) of sub-regulation 3 for a period of not less than three years from the date of such re-classification failing which, he shall automatically be reclassified as promoter/ persons belonging to promoter group, as applicable.

- (5) If any public shareholder seeks to re-classify itself as promoter, it shall be required to make an open offer in accordance with the provisions of Securities and Exchange Board of India (Substantial Acquisition of Shares and Takeovers) Regulations, 2011.
- (6) In case of transmission, succession, inheritance and gift of shares held by a promoter/ person belonging to the promoter group:
  - (a) immediately on such event, the recipient of such shares shall be classified as a promoter/ person belonging to the promoter group, as applicable.
  - (b) subsequently, in case the recipient classified as a promoter/person belonging to the promoter group proposes to seek re-classification of status as public, it may do so subject to compliance with conditions specified in sub-regulation (3) above.
  - (c) in case of death of a promoter/person belonging to the promoter group, such person shall automatically cease to be included as a promoter/person belonging to the promoter group.
- (7) A listed entity shall be considered as 'listed entity with no promoters' if due to reclassification or otherwise, the entity does not have any promoter;
- (8) The following events shall deemed to be material events and shall be disclosed by the listed entity to the stock exchanges as soon as reasonably possible and not later than twenty four hours from the occurrence of the event:
  - (a) receipt of request for re-classification by the listed entity from the promoter(s) seeking re-classification;
  - (b) minutes of the board meeting considering such request which would include the views of the board on the request;
  - (c) submission of application for re-classification of status as promoter/public by the listed entity to the stock exchanges;
  - (d) decision of the stock exchanges on such application as communicated to the listed entity;
- (9) The provisions of sub-regulations (3), (4) and clauses (a) and (b) of sub-regulation (8) of this regulation shall not apply if reclassification of promoter(s) is as per the resolution plan approved under section 31 of the Insolvency Code or pursuant to an order of a Regulator under any law subject to the condition that such promoter(s) seeking reclassification shall not remain in control of the listed entity.
- (10) In case of reclassification pursuant to an open offer or a scheme of arrangement, the provisions of clause (a) of sub-regulation (3) and clauses (a) and (b) of sub-regulation (8) of this regulation shall not apply if the intent of the erstwhile

promoter(s) to reclassify has been disclosed in the letter of offer or scheme of arrangement:

**Provided that** the provisions of clause (c)(i) of sub-regulation (3) of this regulation shall not apply in case of reclassification pursuant to an open offer.

**Statement of deviation(s) or variation(s)**

32. (1) The listed entity shall submit to the stock exchange the following statement(s) on a quarterly basis for public issue, rights issue, preferential issue etc. , -
- (a) indicating deviations, if any, in the use of proceeds from the objects stated in the offer document or explanatory statement to the notice for the general meeting, as applicable;
  - (b) indicating category wise variation (capital expenditure, sales and marketing, working capital etc.) between projected utilisation of funds made by it in its offer document or explanatory statement to the notice for the general meeting, as applicable and the actual utilisation of funds.
- (2) The statement(s) specified in sub-regulation (1), shall be continued to be given till such time the issue proceeds have been fully utilised or the purpose for which these proceeds were raised has been achieved.
- (3) The statement(s) specified in sub-regulation (1), shall be placed before the audit committee for review and after such review, shall be submitted to the stock exchange(s).
- (4) The listed entity shall furnish an explanation for the variation specified in sub-regulation (1), in the directors' report in the annual report.
- (5) The listed entity shall prepare an annual statement of funds utilized for purposes other than those stated in the offer document/prospectus/notice, certified by the statutory auditors of the listed entity, and place it before the audit committee till such time the full money raised through the issue has been fully utilized.
- (6) Where the listed entity has appointed a monitoring agency to monitor utilisation of proceeds of a public or rights issue, the listed entity shall submit to the stock exchange(s) any comments or report received from the monitoring agency within forty-five days from the end of each quarter.
- (7) Where the listed entity has appointed a monitoring agency to monitor the utilisation of proceeds of a public or rights issue, the monitoring report of such agency shall be placed before the audit committee on an annual basis, promptly upon its receipt.

**Explanation-** For the purpose of sub-regulations (6) and (7), "monitoring agency" shall mean the monitoring agency as specified in the Securities and Exchange Board of India (Issue of Capital and Disclosure Requirements) Regulations, 2018.

- (7A) Where an entity has raised funds through preferential allotment or qualified institutions placement, the listed entity shall disclose every year, the utilization of such funds during that year in its Annual Report until such funds are fully utilized.
- (8) For the purpose of this regulation, any reference to “quarterly/quarter” in case of listed entity which have listed their specified securities on SME Exchange shall respectively be read as “half yearly/half year”.

### Financial results

33. (1) While preparing financial results, the listed entity shall comply with the following:
- (a) The financial results shall be prepared on the basis of accrual accounting policy and shall be in accordance with uniform accounting practices adopted for all the periods.
  - (b) The quarterly and year to date results shall be prepared in accordance with the recognition and measurement principles laid down in Accounting Standard 25 or Indian Accounting Standard 31 (AS 25/ Ind AS 34 – Interim Financial Reporting), as applicable, specified in Section 133 of the Companies Act, 2013 read with relevant rules framed thereunder or as specified by the Institute of Chartered Accountants of India, whichever is applicable.
  - (c) The standalone financial results and consolidated financial results shall be prepared as per Generally Accepted Accounting Principles in India:  
**Provided that** in addition to the above, the listed entity may also submit the financial results, as per the International Financial Reporting Standards notified by the International Accounting Standards Board.
  - (d) The listed entity shall ensure that the limited review or audit reports submitted to the stock exchange(s) on a quarterly or annual basis are to be given only by an auditor who has subjected himself/herself to the peer review process of Institute of Chartered Accountants of India and holds a valid certificate issued by the Peer Review Board of the Institute of Chartered Accountants of India.
  - (e) The listed entity shall make the disclosures specified in **Part A of Schedule IV**.
- (2) The approval and authentication of the financial results shall be done by listed entity in the following manner:
- (a) The quarterly financial results submitted shall be approved by the board of directors:  
**Provided that** while placing the financial results before the board of directors, the chief executive officer and chief financial officer of the listed entity shall certify that the financial results do not contain any false or misleading

statement or figures and do not omit any material fact which may make the statements or figures contained therein misleading.

- (b) The financial results submitted to the stock exchange shall be signed by the chairperson or managing director, or a whole time director or in the absence of all of them; it shall be signed by any other director of the listed entity who is duly authorized by the board of directors to sign the financial results.
  - (c) The limited review report shall be placed before the board of directors, at its meeting which approves the financial results, before being submitted to the stock exchange(s).
  - (d) The annual audited financial results shall be approved by the board of directors of the listed entity and shall be signed in the manner specified in clause (b) of sub-regulation (2).
- (3) The listed entity shall submit the financial results in the following manner:
- (a) The listed entity shall submit quarterly and year-to-date standalone financial results to the stock exchange within forty-five days of end of each quarter, other than the last quarter
  - (b) In case the listed entity has subsidiaries, in addition to the requirement at clause (a) of sub-regulation (3), the listed entity [shall] also submit quarterly/year-to date consolidated financial results
  - (c) The quarterly and year-to-date financial results may be either audited or unaudited subject to the following:
    - (i) In case the listed entity opts to submit unaudited financial results, they shall be subject to limited review by the statutory auditors of the listed entity and shall be accompanied by the limited review report.  
**Provided that** in case of public sector undertakings this limited review may be undertaken by any practicing Chartered Accountant.
    - (ii) In case the listed entity opts to submit audited financial results, they shall be accompanied by the audit report.
  - (d) The listed entity shall submit annual audited standalone financial results for the financial year, within sixty days from the end of the financial year along with the audit report and Statement on Impact of Audit Qualifications (applicable only for audit report with modified opinion):  
**Provided that** if the listed entity has subsidiaries, it shall, while submitting annual audited standalone financial results also submit annual audited consolidated financial results along with the audit report and Statement on

Impact of Audit Qualifications (applicable only for audit report with modified opinion)

**Provided further** that, in case of audit reports with unmodified opinion(s), the listed entity shall furnish a declaration to that effect to the Stock Exchange(s) while publishing the annual audited financial results.

- (e) The listed entity shall also submit the audited or limited reviewed financial results in respect of the last quarter along-with the results for the entire financial year, with a note stating that the figures of last quarter are the balancing figures between audited figures in respect of the full financial year and the published yearto-date figures upto the third quarter of the current financial year.
  - (f) The listed entity shall also submit as part of its standalone or consolidated financial results for the half year, by way of a note, a statement of assets and liabilities as at the end of the half-year.
  - (g) The listed entity shall also submit as part of its standalone and consolidated financial results for the half year, by way of a note, statement of cash flows for the half-year.
  - (h) The listed entity shall ensure that, for the purposes of quarterly consolidated financial results, at least eighty percent of each of the consolidated revenue, assets and profits, respectively, shall have been subject to audit or in case of unaudited results, subjected to limited review.
  - (i) The listed entity shall disclose, in the results for the last quarter in the financial year, by way of a note, the aggregate effect of material adjustments made in the results of that quarter which pertain to earlier periods.
- (4) The applicable formats of the financial results and Statement on Impact of Audit Qualifications (for audit report with modified opinion) shall be in the manner as specified by the Board.
  - (5) For the purpose of this regulation, any reference to “quarterly/quarter” in case of listed entity which has listed their specified securities on SME Exchange shall be respectively read as “half yearly/half year” and the requirement of submitting ‘year-to-date’ financial results shall not be applicable for a listed entity which has listed their specified securities on SME Exchange.
  - (6) The statutory auditor of a listed entity shall undertake a limited review of the audit of all the entities/ companies whose accounts are to be consolidated with the listed entity as per AS 21 in accordance with guidelines issued by the Board on this matter.

## Annual Report

34. (1) The listed entity shall submit to the stock exchange and publish on its website-
- (a) a copy of the annual report sent to the shareholders along with the notice of the annual general meeting not later than the day of commencement of dispatch to its shareholders;
  - (b) in the event of any changes to the annual report, the revised copy along with the details of and explanation for the changes shall be sent not later than 48 hours after the annual general meeting.
- (2) The annual report shall contain the following:
- (a) audited financial statements i.e. balance sheets, profit and loss accounts etc and Statement on Impact of Audit Qualifications as stipulated in regulation 33(3)(d), if applicable;
  - (b) consolidated financial statements audited by its statutory auditors;
  - (c) cash flow statement presented only under the indirect method as prescribed in Accounting Standard-3 or Indian Accounting Standard 7, as applicable, specified in Section 133 of the Companies Act, 2013 read with relevant rules framed thereunder or as specified by the Institute of Chartered Accountants of India, whichever is applicable;
  - (d) directors report;
  - (e) management discussion and analysis report - either as a part of directors report or addition thereto;
  - (f) for the top one thousand listed entities based on market capitalization, a business responsibility report describing the initiatives taken by the listed entity from an environmental, social and governance perspective, in the format as specified by the Board from time to time:

**Provided that** the requirement of submitting a business responsibility report shall be discontinued after the financial year 2021–22 and thereafter, with effect from the financial year 2022–23, the top one thousand listed entities based on market capitalization shall submit a business responsibility and sustainability report in the format as specified by the Board from time to time:

Provided further that even during the financial year 2021–22, the top one thousand listed entities may voluntarily submit a business responsibility and sustainability report in place of the mandatory business responsibility report:

Provided further that the remaining listed entities including the entities which have listed their specified securities on the SME Exchange, may voluntarily submit such reports.

**Explanation:** For the purpose of this clause, market capitalization shall be calculated as on the 31st day of March of every financial year.

- (3) The annual report shall contain any other disclosures specified in Companies Act, 2013 along with other requirements as specified in Schedule V of these regulations.

### **Annual Information Memorandum**

35. The listed entity shall submit to the stock exchange(s) an Annual Information Memorandum in the manner specified by the Board from time to time.

### **Documents & Information to shareholders**

36. (1) The listed entity shall send the annual report in the following manner to the shareholders:
  - (a) Soft copies of full annual report to all those shareholder(s) who have registered their email address (es) either with the listed entity or with any depository;
  - (b) Hard copy of statement containing the salient features of all the documents, as prescribed in Section 136 of Companies Act, 2013 or rules made thereunder to those shareholder(s) who have not so registered;
  - (c) Hard copies of full annual reports to those shareholders, who request for the same.
- (2) The listed entity shall send annual report referred to in sub-regulation (1), to the holders of securities, not less than twenty-one days before the annual general meeting.
- (3) In case of the appointment of a new director or re-appointment of a director the shareholders must be provided with the following information:
  - (a) a brief resume of the director;
  - (b) nature of expertise in specific functional areas;
  - (c) disclosure of relationships between directors inter-se;
  - (d) names of listed entities in which the person also holds the directorship and the membership of Committees of the board; and
  - (e) shareholding of non-executive directors in the listed entity, including shareholding as a beneficial owner.

- (4) The disclosures made by the listed entity with immediate effect from date of notification of these amendments-
- (a) to the stock exchanges shall be in XBRL format in accordance with the guidelines specified by the stock exchanges from time to time; and
  - (b) to the stock exchanges and on its website, shall be in a format that allows users to find relevant information easily through a searching tool:

**Provided that** the requirement to make disclosures in searchable formats shall not apply in case there is a statutory requirement to make such disclosures in formats which may not be searchable, such as copies of scanned documents.

- (5) The notice being sent to shareholders for an annual general meeting, where the statutory auditor(s) is/are proposed to be appointed/re-appointed shall include the following disclosures as a part of the explanatory statement to the notice:
- (a) Proposed fees payable to the statutory auditor(s) along with terms of appointment and in case of a new auditor, any material change in the fee payable to such auditor from that paid to the outgoing auditor along with the rationale for such change;
  - (b) Basis of recommendation for appointment including the details in relation to and credentials of the statutory auditor(s) proposed to be appointed.

#### **Draft Scheme of Arrangement & Scheme of Arrangement**

37. (1) Without prejudice to provisions of regulation 11, the listed entity desirous of undertaking a scheme of arrangement or involved in a scheme of arrangement, shall file the draft scheme of arrangement, proposed to be filed before any Court or Tribunal under sections 391-394 and 101 of the Companies Act, 1956 or under Sections 230-234 and Section 66 of Companies Act, 2013, whichever applicable, along with a non-refundable fee as specified in Schedule XI, with the stock exchange(s) for obtaining the No-objection letter, before filing such scheme with any Court or Tribunal, in terms of requirements specified by the Board or stock exchange(s) from time to time.
- (2) The listed entity shall not file any scheme of arrangement under sections 391-394 and 101 of the Companies Act, 1956 or under Sections 230-234 and Section 66 of Companies Act, 2013, whichever applicable, with any Court or Tribunal unless it has obtained the No-objection letter from the stock exchange(s).
- (3) The listed entity shall place the No-objection letter of the stock exchange(s) before the Court or Tribunal at the time of seeking approval of the scheme of arrangement:

**Provided that** the validity of the No-objection letter of stock exchanges shall be six months from the date of issuance, within which the draft scheme of arrangement shall be submitted to the Court or Tribunal.

- (4) The listed entity shall ensure compliance with the other requirements as may be prescribed by the Board from time to time.
- (5) Upon sanction of the Scheme by the Court or Tribunal, the listed entity shall submit the documents, to the stock exchange(s), as prescribed by the Board and/or stock exchange(s) from time to time.
- (6) Nothing contained in this regulation shall apply to draft schemes which solely provide for merger of a wholly owned subsidiary with its holding company:

**Provided that** such draft schemes shall be filed with the stock exchanges for the purpose of disclosures.

- (7) The requirements as specified under this regulation and under regulation 94 of these regulations shall not apply to a restructuring proposal approved as part of a resolution plan by the Tribunal under section 31 of the Insolvency Code, subject to the details being disclosed to the recognized stock exchanges within one day of the resolution plan being approved.

#### **Minimum Public Shareholding**

- 38.** The listed entity shall comply with the minimum public shareholding requirements specified in Rule 19(2) and Rule 19A of the Securities Contracts (Regulation) Rules, 1957 in the manner as specified by the Board from time to time:

**Provided that** provisions of this regulation shall not apply to entities listed on Innovators Growth Platform without making a public issue.

#### **Issuance of Certificates or Receipts/Letters/Advices for securities and dealing with unclaimed securities**

- 39.** (1) The listed entity shall comply with Rule 19(3) of Securities Contract (Regulations) Rules, 1957 in respect of Letter/Advices of Allotment, Acceptance or Rights, transfers, subdivision, consolidation, renewal, exchanges, issuance of duplicates thereof or any other purpose.
- (2) The listed entity shall issue certificates or receipts or advices, as applicable, of subdivision, split, consolidation, renewal, exchanges, endorsements, issuance of duplicates thereof or issuance of new certificates or receipts or advices, as applicable, in cases of loss or old decrepit or worn out certificates or receipts or advices, as applicable within a period of thirty days from the date of such lodgement.

- (3) The listed entity shall submit information regarding loss of share certificates and issue of the duplicate certificates, to the stock exchange within two days of its getting information.
- (4) The listed entity shall comply with the procedural requirements specified in Schedule VI while dealing with securities issued pursuant to the public issue or any other issue, physical or otherwise, which remain unclaimed and/or are lying in the escrow account, as applicable.

#### **Transfer or transmission or transposition of securities**

40. (1) Save as otherwise specified in provisions of securities laws or Companies Act, 2013 and rules made thereunder, the listed entity shall also comply with the requirements as specified in this regulation for effecting transfer of securities.

**Provided that**, except in case of transmission or transposition of securities, requests for effecting transfer of securities shall not be processed unless the securities are held in the dematerialized form with a depository

- (2) The board of directors of a listed entity may delegate the power of transfer of securities to a committee or to compliance officer or to the registrar to an issue and/or share transfer agent(s):

**Provided that** the board of directors and/or the delegated authority shall attend to the formalities pertaining to transfer of securities at least once in a fortnight:

**Provided further** that the delegated authority shall report on transfer of securities to the board of directors in each meeting.

- (3) On receipt of proper documentation, the listed entity shall register transfers of its securities in the name of the transferee(s) and issue certificates or receipts or advices, as applicable, of transfers; or issue any valid objection or intimation to the transferee or transferor, as the case may be, within a period of fifteen days from the date of such receipt of request for transfer:

**Provided that** the listed entity shall ensure that transmission requests are processed for securities held in dematerialized mode and physical mode within seven days and twenty one days respectively, after receipt of the specified documents:

**Provided further** that proper verifiable dated records of all correspondence with the investor shall be maintained by the listed entity.

- (4) The listed entity shall not register transfer when any statutory prohibition or any attachment or prohibitory order of a competent authority restrains it from transferring the securities from the name of the transferor(s).
- (5) The listed entity shall not register the transfer of its securities in the name of the transferee(s) when the transferor(s) objects to the transfer:

**Provided that** the transferor serves on the listed entity, within sixty working days of raising the objection, a prohibitory order of a Court of competent jurisdiction.

- (6) The listed entity shall not decline to, register or acknowledge any transfer of shares, on the ground of the transferor(s) being either alone or jointly with any other person or persons indebted to the listed entity on any account whatsoever.
- (7) The listed entity shall comply with all procedural requirements as specified in Schedule VII with respect to transfer of securities.
- (8) In case the listed entity has not effected transfer of securities within fifteen days or where the listed entity has failed to communicate to the transferee(s) any valid objection to the transfer, within the stipulated time period of fifteen days, the listed entity shall compensate the aggrieved party for the opportunity losses caused during the period of the delay:

**Provided that** during the intervening period on account of delay in transfer above, the listed entity shall provide all benefits, which have accrued, to the holder of securities in terms of provisions of Section 126 of Companies Act, 2013, and Section 27 of the Securities Contracts (Regulation) Act, 1956:

**Provided further** that in case of any claim, difference or dispute under this sub-regulation the same shall be referred to and decided by arbitration as provided in the bye-laws and/or regulations of the stock exchange(s).

- (9) The listed entity shall ensure that the share transfer agent and/or the in-house share transfer facility, as the case may be, produces a certificate from a practicing company secretary within thirty days from the end of the financial year, certifying that all certificates have been issued within thirty days of the date of lodgement for transfer, subdivision, consolidation, renewal, exchange or endorsement of calls/allotment monies.
- (10) The listed entity shall ensure that certificate mentioned at sub-regulation (9), shall be filed with the stock exchange(s) simultaneously.
- (11) In addition to transfer of securities, the provisions of this regulation shall also apply to the following :
  - (a) deletion of name of the deceased holder(s) of securities, where the securities are held in the name of two or more holders of securities ;
  - (b) transmission of securities to the legal heir(s), where deceased holder of securities was the sole holder of securities;
  - (c) transposition of securities, when there is a change in the order of names in which physical securities are held jointly in the names of two or more holders of securities.

**Other provisions relating to securities**

41. (1) The listed entity shall not exercise a lien on its fully paid shares and that in respect of partly paid shares it shall not exercise any lien except in respect of moneys called or payable at a fixed time in respect of such shares.
- (2) The listed entity shall, in case of any amount to be paid in advance of calls on any shares stipulate that such amount may carry interest but shall not in respect thereof confer a right to dividend or to participate in profits.
- [(3) The listed entity shall not issue shares in any manner that may confer on any person; superior or inferior rights as to dividend vis-à-vis the rights on equity shares that are already listed or inferior voting rights vis-à-vis the rights on equity shares that are already listed:
- Provided that**, a listed entity having SR equity shares issued to its promoters/ founders, may issue SR equity shares to its SR shareholders only through a bonus, split or rights issue in accordance with the provisions of the Securities and Exchange Board of India (Issue of Capital and Disclosure Requirements) Regulations, 2018 and the Companies Act, 2013.]
- (4) The listed entity shall, issue or offer in the first instance all shares (including forfeited shares), securities, rights, privileges and benefits to subscribe pro rata basis , to the equity shareholders of the listed entity, unless the shareholders in the general meeting decide otherwise.
- (5) Unless the terms of issue otherwise provide, the listed entity shall not select any of its listed securities for redemption otherwise than on pro-rata basis or by lot.

**[Other provisions relating to outstanding SR equity shares].**

- 41A (1) The SR equity shares shall be treated at par with the ordinary equity shares in every respect, including dividends, except in the case of voting on resolutions.
- (2) The total voting rights of SR shareholders (including ordinary shares) in the issuer upon listing, pursuant to an initial public offer, shall not at any point of time exceed seventy four per cent.
- (3) The SR equity shares shall be treated as ordinary equity shares in terms of voting rights (i.e. one SR share shall only have one vote) in the following circumstances –
- i. appointment or removal of independent directors and/or auditor;
  - ii. where a promoter is willingly transferring control to another entity;
  - iii. related party transactions in terms of these regulations involving an SR shareholder;
  - iv. voluntary winding up of the listed entity;

- v. changes to the Articles of Association or Memorandum of Association of the listed entity, except any change affecting the SR equity share;
  - vi. initiation of a voluntary resolution process under the Insolvency Code;
  - vii. utilization of funds for purposes other than business;
  - viii. substantial value transaction based on materiality threshold as specified under these regulations;
  - ix. passing of special resolution in respect of delisting or buy-back of shares; and
  - x. other circumstances or subject matter as may be specified by the Board, from time to time.
- (4) The SR equity shares shall be converted into equity shares having voting rights same as that of ordinary shares on the fifth anniversary of listing of ordinary shares of the listed entity:

Provided that the SR equity shares may be valid for upto an additional five years, after a resolution to that effect has been passed, where the SR shareholders have not been permitted to vote:

Provided further that the SR shareholders may convert their SR equity shares into ordinary equity shares at any time prior to the period as specified in this sub-regulation.

- (5) The SR equity shares shall be compulsorily converted into equity shares having voting rights same as that of ordinary shares on the occurrence of any of the following events –
- i. demise of the promoter(s) or founder holding such shares;
  - ii. an SR shareholder resigns from the executive position in the listed entity;
  - iii. merger or acquisition of the listed entity having SR shareholder/s, where the control would no longer remain with the SR shareholder/s;
  - iv. the SR equity shares are sold by an SR shareholder who continues to hold such shares after the lock-in period but prior to the lapse of validity of such SR equity shares.]
42. (1) The listed entity shall intimate the record date for the following events to all the stock exchange(s) where it is listed or where stock derivatives are available on the stock of the listed entity or where listed entity's stock form part of an index on which derivatives are available:
- (a) declaration of dividend;
  - (b) issue of right or bonus shares

- (c) issue of shares for conversion of debentures or any other convertible security;
  - (d) shares arising out of rights attached to debentures or any other convertible security
  - (e) Corporate action like mergers, demergers, split, etc.;
  - (f) such other purposes as may be specified by the stock exchange(s).
- (2) The listed entity shall give notice in advance of atleast seven working days (excluding the date of intimation and the record date) to stock exchange(s) of record date specifying the purpose of the record date.
  - (3) The listed entity shall recommend or declare all dividend and/or cash bonuses at least five working days (excluding the date of intimation and the record date) before the record date fixed for the purpose.
  - (4) The listed entity shall ensure the time gap of at least thirty days between two record dates.
  - (5) For securities held in physical form, the listed entity may, announce dates of closure of its transfer books in place of record date for complying with requirements as specified in sub-regulations (1) to (4):

**Provided that** the listed entity shall ensure that there is a time gap of atleast thirty days between two dates of closure of its transfer books.

### **Dividends**

- 43. (1) The listed entity shall declare and disclose the dividend on per share basis only.
- (2) The listed entity shall not forfeit unclaimed dividends before the claim becomes barred by law and such forfeiture, if effected, shall be annulled in appropriate cases.

### **Dividend Distribution Policy**

- 43A. (1) The top 1000 listed entities based on market capitalization (calculated as on March 31 of every financial year) shall formulate a dividend distribution policy which shall be disclosed on the website of the listed entity and a web-link shall also be provided in their annual reports.
- (2) The dividend distribution policy shall include the following parameters:
  - (a) the circumstances under which the shareholders of the listed entities may or may not expect dividend;
  - (b) the financial parameters that shall be considered while declaring dividend;
  - (c) internal and external factors that shall be considered for declaration of dividend;

- (d) policy as to how the retained earnings shall be utilized; and
- (e) parameters that shall be adopted with regard to various classes of shares:

**Provided that** if the listed entity proposes to declare dividend on the basis of parameters in addition to clauses (a) to (e) or proposes to change such additional parameters or the dividend distribution policy contained in any of the parameters, it shall disclose such changes along with the rationale for the same in its annual report and on its website.

- (3) The listed entities other than those specified at sub-regulation (1) of this regulation may disclose their dividend distribution policies on a voluntary basis on their websites and provide a web-link in their annual reports.

### **Meetings of shareholders and voting**

- 44.** (1) The listed entity shall provide the facility of remote e-voting facility to its shareholders, in respect of all shareholders' resolutions.
- (2) The e-voting facility to be provided to shareholders in terms of sub-regulation (1), shall be provided in compliance with the conditions specified under the Companies (Management and Administration) Rules, 2014, or amendments made thereto.
  - (3) The listed entity shall submit to the stock exchange, within two working days of conclusion of its General Meeting, details regarding the voting results in the format specified by the Board.
  - (4) The listed entity shall send proxy forms to holders of securities in all cases mentioning that a holder may vote either for or against each resolution.
  - (5) The top 100 listed entities by market capitalization, determined as on March 31st of every financial year, shall hold their annual general meetings within a period of five months from the date of closing of the financial year.
  - (6) The top 100 listed entities shall provide one-way live webcast of the proceedings of the annual general meetings. Explanation: The top 100 entities shall be determined on the basis of market capitalisation, as at the end of the immediate previous financial year.

### **Change in name of the listed entity**

- 45.** (1) The listed entity shall be allowed to change its name subject to compliance with the following conditions:
- (a) a time period of at least one year has elapsed from the last name change;
  - (b) at least fifty percent. of the total revenue in the preceding one year period has been accounted or by the new activity suggested by the new name; or

- (c) the amount invested in the new activity/project is atleast fifty percent. of the assets of the listed entity:

**Provided that** if any listed entity has changed its activities which are not reflected in its name, it shall change its name in line with its activities within a period of six months from the change of activities in compliance of provisions as applicable to change of name prescribed under Companies Act, 2013.

Explanation: For the purpose of this regulation, -

- (i) 'assets' of the listed entity means the sum of fixed assets, advances, works in Progress / Inventories, investments, trade receivables, cash & cash equivalents;
- (ii) 'advances' shall include only those amounts extended to contractors and suppliers towards execution of project, specific to new activity as reflected in the new name.
- (2) On satisfaction of conditions at sub-regulation (1), the listed entity shall file an application for name availability with Registrar of Companies.
- (3) Upon compliance with the conditions for change of name laid down in Companies Act, 2013 and rules made thereunder, the listed entity, in the explanatory statement to the notice seeking shareholders' approval for change in name, shall include a certificate from a practicing chartered accountant stating compliance with conditions provided in sub- regulation (1).

### Website

46. (1) The listed entity shall maintain a functional website containing the basic information about the listed entity.
- (2) The listed entity shall disseminate the following information [under a separate section on its website:
- (a) details of its business;
- (b) terms and conditions of appointment of independent directors;
- (c) composition of various committees of board of directors;
- (d) code of conduct of board of directors and senior management personnel;
- (e) details of establishment of vigil mechanism/ Whistle Blower policy;
- (f) criteria of making payments to non-executive directors, if the same has not been disclosed in annual report;
- (g) policy on dealing with related party transactions;

- (h) policy for determining 'material' subsidiaries;
- (i) details of familiarization programmes imparted to independent directors including the following details:-
  - (i) number of programmes attended by independent directors (during the year and on a cumulative basis till date),
  - (ii) number of hours spent by independent directors in such programmes (during the year and on cumulative basis till date), and
  - (iii) other relevant details
- (j) the email address for grievance redressal and other relevant details;
- (k) contact information of the designated officials of the listed entity who are responsible for assisting and handling investor grievances;
- (l) financial information including:
  - (i) notice of meeting of the board of directors where financial results shall be discussed;
  - (ii) financial results, on conclusion of the meeting of the board of directors where the financial results were approved;
  - (iii) complete copy of the annual report including balance sheet, profit and loss account, directors report, corporate governance report etc;
- (m) shareholding pattern;
- (n) details of agreements entered into with the media companies and/or their associates, etc;
- (o) Schedule of analysts or institutional investors meet and presentations made by the listed entity to analysts or institutional investors.

**Explanation:** For the purpose of this clause 'meet' shall mean group meetings or group conference calls conducted physically or through digital means;
- (oa) Audio or video recordings and transcripts of post earnings/quarterly calls, by whatever name called, conducted physically or through digital means, simultaneously with submission to the recognized stock exchange(s), in the following manner:
  - (i) the presentation and the audio/video recordings shall be promptly made available on the website and in any case, before the next trading day or within twenty-four hours from the conclusion of such calls, whichever is earlier;

- (ii) the transcripts of such calls shall be made available on the website within five working days of the conclusion of such calls:

**Provided that—**

- a. The information under sub-clause (i) shall be hosted on the website of the listed entity for a minimum period of five years and thereafter as per the archival policy of the listed entity, as disclosed on its website.
- b. The information under sub-clause (ii) shall be hosted on the website of the listed entity and preserved in accordance with clause (a) of regulation 9.

The requirement for disclosure(s) of audio/video recordings and transcript shall be voluntary with effect from April 01, 2021 and mandatory with effect from April 01, 2022;

- (p) new name and the old name of the listed entity for a continuous period of one year, from the date of the last name change;
- (q) items in sub-regulation (1) of regulation 47.
- (r) With effect from October 1, 2018, all credit ratings obtained by the entity for all its outstanding instruments, updated immediately as and when there is any revision in any of the ratings.
- (s) separate audited financial statements of each subsidiary of the listed entity in respect of a relevant financial year, uploaded at least 21 days prior to the date of the annual general meeting which has been called to inter alia consider accounts of that financial year.

**Provided that** a listed entity, which has a subsidiary incorporated outside India—

- (a) where such subsidiary is statutorily required to prepare consolidated financial statement under any law of the country of its incorporation, the requirement of this proviso shall be met if consolidated financial statement of such subsidiary is placed on the website of the listed entity;
- (b) where such subsidiary is not required to get its financial statement audited under any law of the country of its incorporation and which does not get such financial statement audited, the holding Indian listed entity may place such unaudited financial statement on its website and where such financial statement is in a language other than English, a

translated copy of the financial statement in English shall also be placed on the website;

- (t) secretarial compliance report as per sub-regulation (2) of regulation 24A of these regulations;
  - (u) disclosure of the policy for determination of materiality of events or information required under clause (ii), sub-regulation (4) of regulation 30 of these regulations;
  - (v) disclosure of contact details of key managerial personnel who are authorized for the purpose of determining materiality of an event or information and for the purpose of making disclosures to stock exchange(s) as required under sub-regulation (5) of regulation 30 of these regulations;
  - (w) disclosures under sub-regulation (8) of regulation 30 of these regulations;
  - (x) statements of deviation(s) or variation(s) as specified in regulation 32 of these regulations;
  - (y) dividend distribution policy by listed entities based on market capitalization as specified in sub-regulation (1) of regulation 43A;
  - (z) annual return as provided under section 92 of the Companies Act, 2013 and the rules made thereunder.
- (3) (a) The listed entity shall ensure that the contents of the website are correct.
- (b) The listed entity shall update any change in the content of its website within two working days from the date of such change in content.

### Advertisements in Newspapers

47. (1) The listed entity shall publish the following information in the newspaper:
- (a) financial results, as specified in regulation 33, along-with the modified opinion(s) or reservation(s), if any, expressed by the auditor:  
**Provided that** if the listed entity has submitted both standalone and consolidated financial results, the listed entity shall publish consolidated financial results alongwith (1) Turnover, (2) Profit before tax and (3) Profit after tax, on a stand-alone basis, as a foot note; and a reference to the places, such as the website of listed entity and stock exchange(s), where the standalone results of the listed entity are available.
  - (b) notices given to shareholders by advertisement.

- (2) The listed entity shall give a reference in the newspaper publication, in sub-regulation (1), to link of the website of listed entity and stock exchange(s), where further details are available.
- (3) The listed entity shall publish the information specified in sub-regulation (1) in the newspaper simultaneously with the submission of the same to the stock exchange(s).

**Provided that** financial results at clause (b) of sub-regulation (1), shall be published within 48 hours of conclusion of the meeting of board of directors at which the financial results were approved.

- (4) The information at sub-regulation (1) shall be published in at least one English language national daily newspaper circulating in the whole or substantially the whole of India and in one daily newspaper published in the language of the region, where the registered office of the listed entity is situated:

**Provided that** the requirements of this regulation shall not be applicable in case of listed entities which have listed their specified securities on SME Exchange.

### Accounting Standards

48. The listed entity shall comply with all the applicable and notified Accounting Standards from time to time.

## CHAPTER V



### OBLIGATIONS OF LISTED ENTITY WHICH HAS LISTED ITS NON-CONVERTIBLE DEBT SECURITIES OR NON-CONVERTIBLE REDEEMABLE PREFERENCE SHARES OR BOTH

#### Applicability

49. (1) The provisions of this chapter shall apply only to a listed entity which has listed its 'Non-convertible Debt Securities' and/or 'Non-Convertible Redeemable Preference Shares' on a recognised stock exchange in accordance with Securities and Exchange Board of India (Issue and Listing of Debt Securities) Regulations, 2008 or Securities and Exchange Board of India (Issue and Listing of Non-Convertible Redeemable Preference Shares) Regulations, 2013 respectively.
- (2) The provisions of this chapter shall also be applicable to "perpetual debt instrument" and "perpetual non-cumulative preference share" listed by banks.

**Explanation (1)** - For the purpose of this chapter, "Bank" means any bank included in the Second Schedule to the Reserve Bank of India Act, 1934.

**Explanation (2)** - For the purpose of this chapter, if the listed entity has listed its nonconvertible redeemable preference shares:

- (i) The reference to “interest” may also read as dividend;
- (ii) The provisions concerning debenture trustees and security creation (or asset cover or charge on assets) shall not be applicable for “non-convertible redeemable preference shares”

#### **Intimation to stock exchange(s)**

50. (1) The listed entity shall give prior intimation to the stock exchange(s) at least eleven working days before the date on and from which the interest on debentures and bonds, and redemption amount of redeemable shares or of debentures and bonds shall be payable.
- (2) The listed entity shall intimate the stock exchange(s), its intention to raise funds through new non-convertible debt securities or non-convertible redeemable preference shares it proposes to list either through a public issue or on private placement basis, prior to issuance of such securities:
- Provided that** the above intimation may be given prior to the meeting of board of directors wherein the proposal to raise funds through new non-convertible debt securities or nonconvertible redeemable preference shares shall be considered.
- (3) The listed entity shall intimate to the stock exchange(s), at least two working days in advance, excluding the date of the intimation and date of the meeting, regarding the meeting of its board of directors, at which the recommendation or declaration of issue of non-convertible debt securities or any other matter affecting the rights or interests of holders of non-convertible debt securities or non-convertible redeemable preference shares is proposed to be considered.

#### **Disclosure of information having bearing on performance/operation of listed entity and/or price sensitive information**

51. (1) The listed entity shall promptly inform the stock exchange(s) of all information having bearing on the performance/operation of the listed entity, price sensitive information or any action that shall affect payment of interest or dividend of nonconvertible preference shares or redemption of non convertible debt securities or redeemable preference shares.

**Explanation** - The expression ‘promptly inform’, shall imply that the stock exchange must be informed as soon as practically possible and without any delay and that the information shall be given first to the stock exchange(s) before providing the same to any third party.

- (2) Without prejudice to the generality of sub-regulation(1), the listed entity who has issued or is issuing non-convertible debt securities and/or non-convertible redeemable preference shares shall make disclosures as specified in Part B of Schedule III.

### Financial Results

52. (1) The listed entity shall prepare and submit un-audited or audited financial results on a half yearly basis in the format as specified by the Board within forty five days from the end of the half year to the recognised stock exchange(s).

**Provided that** in case of entities which have listed their equity shares and debt securities, a copy of the financial results submitted to stock exchanges shall be provided to Debenture Trustees on the same day the information is submitted to stock exchanges.

- (2) The listed entity shall comply with following requirements with respect to preparation, approval, authentication and publication of annual and half-yearly financial results:

- (a) Un-audited financial results shall be accompanied by limited review report prepared by the statutory auditors of the listed entity or in case of public sector undertakings, by any practicing Chartered Accountant, in the format as specified by the Board:

**Provided that** if the listed entity intimates in advance to the stock exchange(s) that it shall submit to the stock exchange(s) its annual audited results within sixty days from the end of the financial year, un-audited financial results for the last half year accompanied by limited review report by the auditors need not be submitted to stock exchange(s).

- (b) Half-yearly results shall be taken on record by the board of directors and signed by the managing director / executive director.
- (c) The audited results for the year shall be submitted to the recognised stock exchange(s) in the same format as is applicable for half-yearly financial results.
- (d) If the listed entity opts to submit un-audited financial results for the last half year accompanied by limited review report by the auditors, it shall also submit audited financial results for the entire financial year, as soon as they are approved by the board of directors.
- (e) Modified opinion(s) in audit reports that have a bearing on the interest payment/ dividend payment pertaining to non-convertible redeemable debentures/ redemption or principal repayment capacity of the listed entity

shall be appropriately and adequately addressed by the board of directors while publishing the accounts for the said period.

- (3) (a) The annual audited financial results shall be submitted along with the annual audit report and Statement on Impact of Audit Qualifications (applicable only] for audit report with modified opinion

**Provided that**, in case of audit reports with unmodified opinion, the listed entity shall furnish a declaration to that effect to the Stock Exchange(s) while publishing the annual audited financial results.

- (b) The applicable format of Statement on Impact of Audit Qualifications (for audit report with modified opinion) shall be in the manner as specified by the Board.
- (4) The listed entity, while submitting half yearly / annual financial results, shall disclose the following line items along with the financial results:

- (a) credit rating and change in credit rating (if any);
- (b) asset cover available, in case of non-convertible debt securities;
- (c) debt-equity ratio;
- (d) previous due date for the payment of interest/ dividend for non-convertible redeemable preference shares/ repayment of principal of non-convertible preference shares /non convertible debt securities and whether the same has been paid or not; and,
- (e) next due date for the payment of interest/ dividend of non-convertible preference shares /principal along with the amount of interest/ dividend of non-convertible preference shares payable and the redemption amount;
- (f) debt service coverage ratio;
- (g) interest service coverage ratio;
- (h) outstanding redeemable preference shares (quantity and value);
- (i) capital redemption reserve/debenture redemption reserve;
- (j) net worth;
- (k) net profit after tax;
- (l) earnings per share:

**Provided that** the requirement of disclosures of debt service coverage ratio, asset cover and interest service coverage ratio shall not be applicable for banks or non-banking financial companies registered with the Reserve Bank of India.

**Provided further** that the requirement of this sub- regulation shall not be applicable in case of unsecured debt instruments issued by regulated financial sector entities eligible for meeting capital requirements as specified by respective regulators.

- (5) The listed entity shall, within seven working days from the date of submission of the information required under sub- regulation (4), submit to stock exchange(s), a certificate signed by debenture trustee that it has taken note of the contents.
- (6) The listed entity which has listed its non-convertible redeemable preference shares shall make the following additional disclosures as notes to financials:

- (a) profit for the half year and cumulative profit for the year;
- (b) free reserve as on the end of half year;
- (c) securities premium account balance (if redemption of redeemable preference share is to be done at a premium, such premium may be appropriated from securities premium account):

**Provided that** disclosure on securities premium account balance may be provided only in the year in which non convertible redeemable preference shares are due for redemption;

- (d) track record of dividend payment on non convertible redeemable preference shares:

**Provided that** in case the dividend has been deferred at any time, then the actual date of payment shall be disclosed;

- (e) breach of any covenants under the terms of the non convertible redeemable preference shares:

**Provided that** in case a listed entity is planning a fresh issuance of shares whose end use is servicing of the non convertible redeemable preference shares (whether dividend or principle redemption), then the same shall be disclosed whenever the listed entity decided on such issuances.

- (7) The listed entity shall submit to the stock exchange on a half yearly basis along with the half yearly financial results, a statement indicating material deviations, if any, in the use of proceeds of issue of non convertible debt securities and non-convertible redeemable preference shares from the objects stated in the offer document.
- (8) The listed entity shall, within two calendar days of the conclusion of the meeting of the board of directors, publish the financial results and statement referred to in sub-regulation (4), in at least one English national daily newspaper circulating in the whole or substantially the whole of India.

**Annual Report**

53. The annual report of the listed entity shall contain disclosures as specified in Companies Act, 2013 along with the following:
- (a) audited financial statements i.e. balance sheets, profit and loss accounts etc. and Statement on Impact of Audit Qualifications as stipulated in regulation 52(3)(a), if applicable;
  - (b) cash flow statement presented only under the indirect method as prescribed in Accounting Standard-3/ Indian Accounting Standard 7, mandated under Section 133 of the Companies Act, 2013 read with relevant rules framed thereunder or by the Institute of Chartered Accountants of India, whichever is applicable;
  - (c) auditors report;
  - (d) directors report;
  - (e) name of the debenture trustees with full contact details ;
  - (f) related party disclosures as specified in Para A of Schedule V.

**Asset Cover**

54. (1) In respect of its listed non-convertible debt securities, the listed entity shall maintain hundred per cent. asset cover or asset cover as per the terms of offer document/Information Memorandum and/or Debenture Trust Deed, sufficient to discharge the principal amount at all times for the non-convertible debt securities issued.
- (2) The listed entity shall disclose to the stock exchange in quarterly, half-yearly, yearto-date and annual financial statements, as applicable, the extent and nature of security created and maintained with respect to its secured listed non-convertible debt securities.

**Credit Rating**

55. Each rating obtained by the listed entity with respect to non-convertible debt securities shall be reviewed at least once a year by a credit rating agency registered by the Board.

**Documents and Intimation to Debenture Trustees**

56. (1) The listed entity shall forward the following to the debenture trustee promptly:
- (a) a copy of the annual report at the same time as it is issued along with a copy of certificate from the listed entity's auditors in respect of utilisation of funds during the implementation period of the project for which the funds have been raised:

**Provided that** in the case of debentures or preference shares issued for financing working capital or general corporate purposes or for capital raising purposes the copy of the auditor's certificate may be submitted at the end of each financial year till the funds have been fully utilised or the purpose for which these funds were intended has been achieved.

- (b) a copy of all notices, resolutions and circulars relating to-
  - (i) new issue of non-convertible debt securities at the same time as they are sent to shareholders/ holders of non-convertible debt securities;
  - (ii) the meetings of holders of non-convertible debt securities at the same time as they are sent to the holders of non-convertible debt securities or advertised in the media including those relating to proceedings of the meetings;
- (c) intimations regarding :
  - (i) any revision in the rating;
  - (ii) any default in timely payment of interest or redemption or both in respect of the non-convertible debt securities;
  - (iii) failure to create charge on the assets;
  - (iv) all covenants of the issue (including side letters, accelerated payment clause, etc.)
- (d) a half-yearly certificate regarding maintenance of hundred percent asset cover or asset cover as per the terms of offer document/ Information Memorandum and/or Debenture Trust Deed, including compliance with all the covenants, in respect of listed non-convertible debt securities, by the statutory auditor, along with the half-yearly financial results:

**Provided that** the submission of half yearly certificate is not applicable where bonds are secured by a Government guarantee.

- (2) The listed entity shall forward to the debenture trustee any such information sought and provide access to relevant books of accounts as required by the debenture trustee.
- (3) The listed entity may, subject to the consent of the debenture trustee, send the information stipulated in sub-regulation (1), in electronic form/fax.

#### **Other submissions to stock exchange(s)**

57. (1) The listed entity shall submit a certificate to the stock exchange within two days of the interest or principal or both becoming due that it has made timely payment of

interests or principal obligations or both in respect of the non-convertible debt securities.

- (2) The listed entity shall provide an undertaking to the stock exchange(s) on annual basis stating that all documents and intimations required to be submitted to Debenture Trustees in terms of Trust Deed and Securities and Exchange Board of India (Issue and Listing of Debt Securities) Regulations, 2008 have been complied with.
- (3) The listed entity shall forward to the stock exchange any other information in the manner and format as specified by the Board from time to time.

**Documents and information to holders of non-convertible debt securities and non-convertible preference shares**

58. (1) The listed entity shall send the following documents:
- (a) Soft copies of full annual reports to all the holders of non-convertible preference share who have registered their email address(es) for the purpose;
  - (b) Hard copy of statement containing the salient features of all the documents, as specified in Section 136 of Companies Act, 2013 and rules made thereunder to those holders of non-convertible preference share who have not so registered;
  - (c) Hard copies of full annual reports to those holders of non-convertible debt securities and non-convertible preference share, who request for the same.
  - (d) Half yearly communication as specified in sub-regulation (4) and (5) of regulation 52, to holders of non-convertible debt securities and non-convertible preference shares;
- (2) The listed entity shall send the notice of all meetings of holders of non-convertible debt securities and holders of non-convertible redeemable preference shares specifically stating that the provisions for appointment of proxy as mentioned in Section 105 of the Companies Act, 2013, shall be applicable for such meeting.
  - (3) The listed entity shall send proxy forms to holders of non-convertible debt securities and non-convertible redeemable preference shares which shall be worded in such a manner that holders of these securities may vote either for or against each resolution.

**Structure of non-convertible debt securities and non-convertible redeemable preference shares**

59. (1) The listed entity shall not make material modification without prior approval of the stock exchange(s) where the non-convertible debt securities or non-convertible redeemable preference shares, as applicable, are listed, to:
- (a) the structure of the debenture in terms of coupon, conversion, redemption, or otherwise.
  - (b) the structure of the non-convertible redeemable preference shares in terms of dividend of non-convertible preference shares payable, conversion, redemption, or otherwise.
- (2) The approval of the stock exchange referred to in sub-regulation (1) shall be made only after:
- (a) approval of the board of directors and the debenture trustee in case of nonconvertible debt securities and
  - (b) after complying with the provisions of Companies Act, 2013 including approval of the consent of requisite majority of holders of that class of securities.

**Record Date**

60. (1) The listed entity shall fix a record date for purposes of payment of interest, dividend and payment of redemption or repayment amount or for such other purposes as specified by the stock exchange.
- (2) The listed entity shall give notice in advance of at least seven working days (excluding the date of intimation and the record date) to the recognised stock exchange(s) of their record date or of as many days as the stock exchange(s) may agree to or require specifying the purpose of the record date.

**Terms of non-convertible debt securities and non-convertible redeemable preference shares**

61. (1) The listed entity shall ensure timely payment of interest or dividend of nonconvertible redeemable preference shares or redemption payment:

**Provided that** the listed entity shall not declare or distribute any dividend wherein it has defaulted in payment of interest on debt securities or redemption thereof or in creation of security as per the terms of the issue of debt securities:

**Provided further** that this requirement shall not be applicable in case of unsecured debt securities issued by regulated financial sector entities eligible for meeting capital requirements as specified by respective regulators.

- (2) The listed entity shall not forfeit unclaimed interest/dividend and such unclaimed interest/dividend shall be transferred to the 'Investor Education and Protection Fund' set up as per Section 125 of the Companies Act, 2013.
- (3) Unless the terms of issue provide otherwise, the listed entity shall not select any of its listed securities for redemption otherwise than pro rata basis or by lot.
- (4) The listed entity shall comply with requirements as specified in regulation 40 for transfer of securities including procedural requirements specified in Schedule VII.

### Website

62. (1) The listed entity shall maintain a functional website containing the following information about the listed entity:-
- (a) details of its business;
  - (b) financial information including complete copy of the annual report including balance sheet, profit and loss account, directors report etc;
  - (c) contact information of the designated officials of the listed entity who are responsible for assisting and handling investor grievances;
  - (d) email address for grievance redressal and other relevant details;
  - (e) name of the debenture trustees with full contact details;
  - (f) the information, report, notices, call letters, circulars, proceedings, etc concerning non-convertible redeemable preference shares or nonconvertible debt securities;
  - (g) all information and reports including compliance reports filed by the listed entity;
  - (h) information with respect to the following events:
    - (i) default by issuer to pay interest on or redemption amount;
    - (ii) failure to create a charge on the assets;
    - (iii) revision of rating assigned to the non-convertible debt securities:
- (2) The listed entity may also issue a press release with respect to the events specified in sub-regulation (1).
- (3) The listed entity shall ensure that the contents of the website are correct and updated at any given point of time.

## CHAPTER VI



### OBLIGATIONS OF LISTED ENTITY WHICH HAS LISTED ITS SPECIFIED SECURITIES AND EITHER NON-CONVERTIBLE DEBT SECURITIES OR NON-CONVERTIBLE REDEEMABLE PREFERENCE SHARES OR BOTH

#### Applicability of Chapters IV and V

63. (1) Entity which has listed its 'specified securities' and 'non-convertible debt securities' or 'non-convertible redeemable preference shares' or both on any recognised stock exchange, shall be bound by the provisions in Chapter IV of these regulations.
- (2) The listed entity described in sub-regulation (1) shall additionally comply with the following regulations in Chapter V:
- (a) regulation 50(2),(3);
  - (b) regulation 51;
  - (c) regulation 52(3), (4), (5) and (6);
  - (d) regulation 53
  - (e) regulation 54
  - (f) regulation 55
  - (g) regulation 56
  - (h) regulation 57
  - (i) regulation 58
  - (j) regulation 59
  - (k) regulation 60
  - (l) regulation 61:

**Provided that** the listed entity which has submitted any information to the stock exchange in compliance with the disclosure requirements under Chapter IV of these regulations, need not re-submit any such information under the provisions of this regulations without prejudice to any power conferred on the Board or the stock exchange or any other authority under any law to seek any such information from the listed entity:

**Provided further** that the listed entity, which has satisfied certain obligations in compliance with other chapters, shall not separately satisfy the same conditions under this chapter.

### **Delisting**

64. (1) In the event specified securities of the listed entity are delisted from the stock exchange, the listed entity shall comply with all the provisions in Chapter V of these regulations.
- (2) In the event that non-convertible debt securities and non-convertible redeemable preference shares' of the listed entity do not remain listed on the stock exchange, the listed entity shall comply with all the provisions in Chapter IV of these regulations.

## **CHAPTER VII**

### **OBLIGATIONS OF LISTED ENTITY WHICH HAS LISTED ITS INDIAN DEPOSITORY RECEIPTS**

#### **Applicability**

65. The provisions of this chapter shall apply to listed entity whose securities market regulators are signatories to the Multilateral Memorandum of Understanding of International Organization of Securities Commission issuing 'Indian Depository Receipts' as defined under Rule 13 of the Companies (Registration of Foreign Companies) Rules, 2014.

#### **Definitions**

66. For the purpose of this chapter, unless the context otherwise requires -
- (a) "IDR Holder(s)" shall mean holder(s) of Indian Depository Receipts.
  - (b) "Depository Agreement" shall mean an agreement between the listed entity and the domestic depository
  - (c) "Home Country" or "country of origin" shall mean the country or parent country where the listed entity is incorporated and listed.
  - (d) "Security holder" shall mean holder of the security or equity shares of the listed entity in the home country.

#### **General Obligations of listed entity**

67. (1) All correspondences filed with the stock exchange(s) and those sent to the IDR Holders shall be in English.

- (2) The listed entity shall comply, at all times, with the rules/regulations/laws of the country of origin.
- (3) The listed entity shall undertake that the competent Courts, Tribunals and regulatory authorities in India shall have jurisdiction in the event of any dispute, either with the stock exchange or any investor, concerning the India Depository Receipts offered or subscribed or bought in India.
- (4) The listed entity shall forward, on a continuous basis, any information requested by the stock exchange, in the interest of investors from time to time.
- (5) In case of any claim, difference or dispute under the provisions of this chapter and other provisions of these regulations applicable to the listed entity, the same shall be referred to and decided by arbitration as provided in the bye-laws and regulations of the stock exchange(s).

#### **Disclosure of material events or information**

- 68.** (1) The listed entity shall promptly inform to the stock exchange(s) of all events which are material, all information which is price sensitive and/or have bearing on performance/operation of the listed entity.
- (2) Without prejudice to the generality of sub-regulation (1), the listed entity shall make the disclosures as specified in Part C of Schedule III.

#### **Indian Depository Receipt holding pattern & Shareholding details**

- 69.** (1) The listed entity shall file with the stock exchange the Indian Depository Receipt holding pattern on a quarterly basis within fifteen days of end of the quarter in the format specified by the Board.
- (2) The listed entity shall file the following details with the stock exchange as is required to be filed in compliance with the disclosure requirements of the listing authority or stock exchange in its home country or any other jurisdiction where the securities of the listed entity are listed:
- (a) Shareholding Pattern;
  - (b) Pre and post arrangement share holding pattern and Capital Structure in case of any corporate restructuring like mergers / amalgamations

#### **Periodical Financial Results**

- 70.** (1) The listed entity shall file periodical financial results with the stock exchange in such manner and within such time and to the extent that it is required to file as per the listing requirements of the home country.
- (2) The listed entity shall comply with the requirements with respect to preparation and disclosures in financial results as specified in Part B of Schedule IV.

**Annual Report**

71. (1) The listed entity shall submit to stock exchange an annual report at the same time as it is disclosed to the security holder in its home country or in other jurisdictions where such securities are listed.
- (2) The annual report shall contain the following:
- (a) Report of board of directors;
  - (b) Balance Sheet;
  - (c) Profit and Loss Account;
  - (d) Auditors Report;
  - (e) All periodical and special reports(if applicable);
  - (f) Any such other report which is required to be sent to security holders annually.
- (3) The listed entity shall comply with the requirements with respect to preparation and disclosures in financial results in annual report as specified in Part B of Schedule IV.

**Corporate Governance**

72. (1) The listed entity shall comply with the corporate governance provisions as applicable in its home country and other jurisdictions in which its equity shares are listed.
- (2) The listed entity shall submit to stock exchange a comparative analysis of the corporate governance provisions that are applicable in its home country and in the other jurisdictions in which its equity shares are listed along with the compliance of the same vis-à-vis the corporate governance requirements applicable under regulation 17 to regulation 27, to other listed entities.

**Documents and Information to IDR Holder**

73. The listed entity shall disclose/send the following documents to IDR Holders, at the same time and to the extent that it discloses to security holders in its home country or in other jurisdictions where its securities are listed:
- (a) Soft copies of the annual report to all the IDR holders who have registered their email address(es) for the purpose
  - (b) Hard copy of the annual report to those IDR holders who request for the same either through domestic depository or Compliance Officer
  - (c) the pre and post arrangement capital structure and share holding pattern in case of any corporate restructuring like mergers / amalgamations and other schemes

**Equitable Treatment to IDR Holders**

74. (1) If the listed entity's equity shares or other securities representing equity shares are also listed on the stock exchange(s) in countries other than its home country, it shall ensure that IDR Holders are treated in a manner equitable with security holders in home country.
- (2) The listed entity shall ensure that for all corporate actions, except those which are not permitted by Indian laws, it shall treat IDR holders in a manner equitable with security holders in the home country.
- (3) In case of take-over or delisting or buy-back of its equity shares, the listed entity shall, while following the laws applicable in its home country, give equitable treatment to IDR holders vis-à-vis security holder in home country.
- (4) The listed entity shall ensure protection of interests of IDR holders particularly with respect to all corporate benefits permissible under Indian laws and the laws of its home country and shall address all investor grievances adequately.

**Advertisements in Newspapers**

75. (1) The listed entity shall publish the following information in the newspaper :
- (a) periodical financial results required to be disclosed;
- (b) Notices given to its IDR Holders by advertisement;
- (2) The information specified in sub-regulation (1) shall be issued in at one English national daily newspaper circulating in the whole or substantially the whole of India and in one Hindi national daily newspaper in India.

**Terms of Indian Depository Receipts**

76. (1) The listed entity shall pay the dividend as per the timeframe applicable in its home country or other jurisdictions where its securities are listed, whichever is earlier, so as to reach the IDR Holders on or before the date fixed for payment of dividend to holders of its equity share or other securities.
- (2) The listed entity shall not forfeit unclaimed dividends before the claim becomes barred by law in the home country of the listed entity, as may be applicable, and that such forfeiture, when effected, shall be annulled in appropriate cases.
- (3) The Indian Depository Receipts shall have two-way fungibility in the manner specified by the Board from time to time.

**Structure of Indian Depository Receipts**

77. (1) The listed entity shall ensure that the underlying shares of IDRs shall rank pari-passu with the existing shares of the same class and the fact of having different classes of

shares based on different criteria, if any, shall be disclosed by the listed entity in the annual report.

- (2) The listed entity shall not exercise a lien on the fully paid underlying shares, against which the IDRs are issued, and that in respect of partly paid underlying shares, against which the IDRs are issued and shall also not exercise any lien except in respect of moneys called or payable at a fixed time in respect of such underlying shares.
- (3) The listed entity, subject to the requirements under the laws and regulations of its home country, if any amount be paid up in advance of calls on any underlying shares against which the IDRs are issued, shall stipulate that such amount may carry interest but shall not in respect thereof confer a right to dividend or to participate in profits.

#### **Record Date**

78. (1) The listed entity, where it is required so to do in its home country or other jurisdictions where its securities may be listed, shall fix the record date for the purpose of payment of dividends or distribution of any other corporate benefits to IDR Holders.
- (2) The listed entity shall give notice in advance of at least four working days to the recognised stock exchange(s) of record date specifying the purpose of the record date.

#### **Voting**

79. (1) The listed entity shall, either directly or through an agent, send out proxy forms to IDR Holders in all cases mentioning that a security holder may vote either for or against each resolution.
- (2) Voting rights of the IDR Holders shall be exercised in accordance with the depository agreement.

#### **Delisting of Indian Depository Receipt**

80. (1) The listed entity shall, if it decides to delist Indian Depository Receipts, give fair and reasonable treatment to IDR holders.
- (2) The listed entity shall comply with such norms and conditions for delisting Indian Depository Receipts as specified by the Board or stock exchange in this regard.
- (3) The listed entity shall, in case underlying equity shares are delisted, shall delist and cancel the Indian Depository Receipts.

## CHAPTER VIII



### OBLIGATIONS OF LISTED ENTITY WHICH HAS LISTED ITS SECURITISED DEBT INSTRUMENTS

#### Applicability

81. (1) The provisions of this chapter shall apply to Special Purpose Distinct Entity issuing securitised debt instruments and trustees of Special Purpose Distinct Entity shall ensure compliance with each of the provisions of these regulations.
- (2) The expressions "asset pool", "clean up call option", "credit enhancement", "debt or receivables", "investor", "liquidity provider", "obligor", "originator", "regulated activity", "scheme", "securitization", "securitized debt instrument", "servicer", "special purpose distinct entity", "sponsor" and "trustee" shall have the same meaning as assigned to them under Securities and Exchange Board of India (Issue and Listing of Securitised Debt Instruments and Security Receipts) Regulations, 2008;

#### Intimation and filings with stock exchange(s)

82. (1) The listed entity shall intimate the Stock exchange, of its intention to issue new securitized debt instruments either through a public issue or on private placement basis (if it proposes to list such privately placed debt securities on the Stock exchange) prior to issuing such securities.
- (2) The listed entity shall intimate to the stock exchange(s), at least two working days in advance, excluding the date of the intimation and date of the meeting, regarding the meeting of its board of trustees, at which the recommendation or declaration of issue of securitized debt instruments or any other matter affecting the rights or interests of holders of securitized debt instruments is proposed to be considered.
- (3) The listed entity shall submit such statements, reports or information including financial information pertaining to Schemes to stock exchange within seven days from the end of the month/ actual payment date, either by itself or through the servicer, on a monthly basis in the format as specified by the Board from time to time:
- Provided that** where periodicity of the receivables is not monthly, reporting shall be made for the relevant periods.
- (4) The listed entity shall provide the stock exchange, either by itself or through the servicer, loan level information, without disclosing particulars of individual borrowers, in manner specified by stock exchange.

**Disclosure of information having bearing on performance/operation of listed entity and/or price sensitive information**

83. (1) The listed entity shall promptly inform the stock exchange(s) of all information having bearing on the on performance/operation of the listed entity and price sensitive information.
- (2) Without prejudice to the generality of sub-regulation(1), the listed entity shall make the disclosures specified in Part D of Schedule III.

Explanation. - The expression 'promptly inform', shall imply that the stock exchange must be informed must as soon as practically possible and without any delay and that the information shall be given first to the stock exchange(s) before providing the same to any third party.

**Credit Rating**

84. (1) Every rating obtained by the listed entity with respect to securitised debt instruments shall be periodically reviewed, preferably once a year, by a credit rating agency registered by the Board.
- (2) Any revision in rating(s) shall be disseminated by the stock exchange(s).

**Information to Investors**

85. (1) The listed entity shall provide either by itself or through the servicer, loan level information without disclosing particulars of individual borrower to its investors.
- (2) The listed entity shall provide information regarding revision in rating as a result of credit rating done periodically in terms of regulation 84 above to its investors.
- (3) The information at sub-regulation (1) and (2) may be sent to investors in electronic form/fax if so consented by the investors.
- (4) The listed entity shall display the email address of the grievance redressal division and other relevant details prominently on its website and in the various materials / pamphlets/ advertisement campaigns initiated by it for creating investor awareness.

**Terms of Securitized Debt Instruments**

86. (1) The listed entity shall ensure that no material modification shall be made to the structure of the securitized debt instruments in terms of coupon, conversion, redemption, or otherwise without prior approval of the recognised stock exchange(s) where the securitized debt instruments are listed and the listed entity shall make an application to the recognised stock exchange(s) only after the approval by Trustees.
- (2) The listed entity shall ensure timely interest/ redemption payment.

- (3) The listed entity shall ensure that where credit enhancement has been provided for, it shall make credit enhancement available for listed securitized debt instruments at all times.
- (4) The listed entity shall not forfeit unclaimed interest and principal and such unclaimed interest and principal shall be, after a period of seven years, transferred to the Investor Protection and Education Fund established under the Securities and Exchange Board of India (Investor Protection and Education Fund) Regulations, 2009.
- (5) Unless the terms of issue provide otherwise, the listed entity shall not select any of its listed securitized debt instruments for redemption otherwise than on pro rata basis or by lot and shall promptly submit to the recognised stock exchange(s) the details thereof.
- (6) The listed entity shall remain listed till the maturity or redemption of securitised debt instruments or till the same are delisted as per the procedure laid down by the Board

**Provided that** the provisions of this sub-regulation shall not restrict the right of the recognised stock exchange(s) to delist, suspend or remove the securities at any time and for any reason which the recognised stock exchange(s) considers proper in accordance with the applicable legal provisions.

#### **Record Date**

87. (1) The listed entity shall fix a record date for payment of interest and payment of redemption or repayment amount or for such other purposes as specified by the recognised stock exchange(s).
- (2) The listed entity shall give notice in advance of atleast seven working days (excluding the date of intimation and the record date) to the recognised stock exchange(s) of the record date or of as many days as the Stock Exchange may agree to or require specifying the purpose of the record date.

## **CHAPTER VIII A**



### **OBLIGATIONS OF LISTED ENTITY WHICH HAS LISTED ITS SECURITY RECEIPTS**

#### **Applicability**

- 87A. (1) The provisions of this chapter shall apply to the issuer of security receipts which has listed its security receipts and the issuer and its sponsor shall ensure compliance with each of the provisions of these Regulations.

- (2) The expressions “asset reconstruction company”, “investor”, “issue”, “issuer”, “offer for sale”, “private placement offer”, “qualified buyer”, “scheme”, “security receipts”, “sponsor”, and “valuer” shall have the same meaning as assigned to them under Securities and Exchange Board of India (Issue and Listing of Securitised Debt Instruments and Security Receipts) Regulations, 2008.

### **Intimations and Disclosure of events or information to Stock Exchanges**

- 87B.** (1) The listed entity shall first disclose to stock exchange(s) of all events or information, as specified in Part E of Schedule III, as soon as reasonably possible but not later than twenty four hours from occurrence of the event or information:

**Provided that** in case the disclosure is made after twenty four hours of occurrence of the event or information, the listed entity shall, along with such disclosures provide explanation for the delay.

- (2) The listed entity with respect to disclosures referred to in this regulation, shall provide updates related to such disclosures on a regular basis, till such time the event is resolved/closed, with relevant explanations.
- (3) The listed entity shall provide specific and adequate reply to all queries raised by stock exchange(s) with respect to any events or information.

**Provided that** the stock exchange(s) shall disseminate information and clarification as soon as reasonably practicable.

- (4) The listed entity, suo moto, may confirm or deny any reported event or information to stock exchange(s).
- (5) The listed entity shall disclose on its website or on the website of the sponsor all such events or information which has been disclosed to stock exchange(s) under this regulation, and such disclosures shall be hosted on the website of the listed entity for a minimum period of five years and thereafter as per the archival policy of the listed entity, as disclosed on its website.

### **Valuation, Rating and NAV disclosure**

- 87C.** (1) An issuer whose security receipts are listed on a stock exchange shall ensure that:
- (i) the listed security receipts are valued at the end of each quarter i.e. as on March 31, June 30, September 30 and December 31 of every year;
  - (ii) valuation is conducted by an independent valuer; and
  - (iii) the net asset value is calculated on the basis of such independent valuation and the same is declared by the asset reconstruction company within fifteen days of the end of the quarter.

- (2) The issuer shall also comply with the extant Reserve Bank of India requirement of obtaining credit rating of security receipts at half yearly interval and declaration of the net asset value thereafter and/or any other requirement as prescribed by the Reserve Bank of India from time to time.

**Provided that** in those two quarters in a year, where both external valuation and credit rating are required, issuer shall disclose lower of the two calculated Net Asset Value.

### **Terms of Security Receipts**

- 87D.** (1) Any security receipt issued would be transferable only in favour of qualified buyers in terms of Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002.
- (2) Unless the terms of issue provide otherwise, the listed entity shall not select any of its listed security receipts for payments otherwise than on pro rata basis or by lot and shall promptly submit to the stock exchange(s) the details thereof.

### **Record Date**

- 87E.** (1) The listed entity shall fix a record date for payment to holders of security receipts or for such other purposes as specified by the stock exchange(s).
- (2) The listed entity shall give notice in advance of at least seven working days (excluding the date of intimation and the record date) to the stock exchange(s) of the record date or of as many days as the stock exchange may agree to or require specifying the purpose of the record date.

## **CHAPTER IX**



### **OBLIGATIONS OF LISTED ENTITY WHICH HAS LISTED ITS MUTUAL FUND UNITS**

#### **Applicability**

- 88.** (1) The provisions of this chapter shall apply to the asset management company managing the mutual fund scheme whose units are listed on the recognised stock exchange(s).
- (2) Notwithstanding anything contained in this chapter, the provisions of the Securities and Exchange Board of India (Mutual Funds) Regulations, 1996 and directions issued thereunder shall apply on the listed entity and to the schemes whose units are listed on the recognised stock exchange(s).

**Definitions**

89. The expressions "Asset Management Company", "Net Asset Value", "Scheme", "Unit" and "Unit Holder" shall have the same meaning as assigned to them under Securities and Exchange Board of India (Mutual Funds) Regulations, 1996;

**Submission of Documents**

90. (1) The listed entity shall intimate to the recognised stock exchange(s) the information relating to daily Net Asset Value, monthly portfolio, half yearly portfolio of those schemes whose units are listed on the recognised stock exchange(s) in the format as specified under Securities and Exchange Board of India (Mutual Funds) Regulations, 1996 and directions issued there under.
- (2) The listed entity shall intimate to the recognised stock exchange(s) in the manner specified by the recognised stock exchange(s) of:
- (a) movement in unit capital of those schemes whose units are listed on the recognised stock exchange(s);
  - (b) rating of the scheme whose units are listed on the recognised stock exchange(s) and any changes in the rating thereof (wherever applicable);
  - (c) imposition of penalties and material litigations against the listed entity and Mutual Fund;
  - (d) any prohibitory orders restraining the listed entity from transferring units registered in the name of the unit holders.

**Dissemination on the website of stock exchange(s)**

91. The listed entity shall submit such information and documents, which are required to be disseminated on the listed entity's website in terms of Securities and Exchange Board of India (Mutual Funds) Regulations, 1996 and directions issued there under, to the recognised stock exchange for dissemination.

## CHAPTER X



### DUTIES AND OBLIGATIONS OF THE RECOGNISED STOCK EXCHANGE(S)

**Dissemination**

92. (1) Upon receipt of relevant intimations, information, filings, reports, statements, documents or any other submissions in terms of these regulations, from the listed entity the recognised stock exchange(s) shall immediately disseminate the same on its website.

- (2) The disseminations by the recognised stock exchange(s) as mentioned in sub-regulation (1) shall be made in organised, user friendly and easily referable manner including by providing hyperlinks for easy accessibility.

### **Transferability**

93. The recognised stock exchange(s) shall coordinate with Depositories to ensure compliance with the applicable laws or directions of the Board or any competent court with regard to freezing / unfreezing, lock-in/ release of lock-in with respect to securities issued or managed by the listed entity.

### **Draft Scheme of Arrangement & Scheme of Arrangement**

94. (1) The designated stock exchange, upon receipt of draft schemes of arrangement and the documents prescribed by the Board, as per sub-regulation (1) of regulation 37, shall forward the same to the Board, in the manner prescribed by the Board.
- (2) The stock exchange(s) shall submit to the Board its No-Objection Letter on the draft scheme of arrangement after inter-alia ascertaining whether the draft scheme of arrangement is in compliance with securities laws within thirty days of receipt of draft scheme of arrangement or within seven days of date of receipt of satisfactory reply on clarifications from the listed entity and/or opinion from independent chartered accountant, if any, sought by stock exchange(s), as applicable.
- (3) The stock exchange(s), shall issue No-objection letter to the listed entity within seven days of receipt of comments from the Board, after suitably incorporating such comments in the No-objection letter:  
**Provided that** the validity of the No-objection letter of stock exchanges shall be six months from the date of issuance.
- (4) The stock exchange(s) shall bring the objections, to the notice of Court or Tribunal at the time of approval of the scheme of arrangement.
- (5) Upon sanction of the Scheme by the Court or Tribunal, the designated stock exchange shall forward its recommendations to the Board on the documents submitted by the listed entity in terms of sub-regulation (5) of regulation 37.

### **Statement on Impact of Audit Qualifications accompanying Annual Audit Report**

95. The recognised stock exchange(s) shall review the Statement on Impact of Audit Qualifications and the accompanying annual audit report submitted in terms of clause (d) of sub-regulation (3) of regulation 33 and clause (a) of sub-regulation (3) of regulation 52.109

### **Grievance Redressal**

96. The recognised stock exchange(s) shall redress/facilitate redressal of complaints of holders of listed securities from time to time.

**Monitoring of Compliance/Non Compliance & Adequacy/ Accuracy of the disclosures**

97. (1) The recognised stock exchange(s) shall monitor compliance by the listed entity with provisions of these regulations.
- (2) The recognised stock exchange(s) shall also monitor adequacy/ accuracy of the disclosures made by listed entity with respect to provisions of these regulations.
- (3) The recognised stock exchange(s) shall submit a report to the Board, with respect to the obligations specified in sub-regulations (1) and (2), in the manner specified by the Board.
- (4) The recognised stock exchange(s) shall put in place appropriate framework including adequate manpower and such infrastructure as may be required to comply with the provisions of this regulation.

## CHAPTER XI



### PROCEDURE FOR ACTION IN CASE OF DEFAULT

**Liability for contravention of the Act, rules or the regulations**

98. (1) The listed entity or any other person thereof who contravenes any of the provisions of these regulations, shall, in addition to liability for action in terms of the securities laws, be liable for the following actions by the respective stock exchange(s), in the manner specified in circulars or guidelines issued by the Board:
- (a) imposition of fines;
  - (b) suspension of trading;
  - (c) freezing of promoter/promoter group holding of designated securities, as may be applicable, in coordination with depositories.
  - (d) any other action as may be specified by the Board from time to time
- (2) The manner of revocation of actions specified in clauses (b) and (c) of sub-regulation (1), shall be as specified in circulars or guidelines issued by the Board.

**Failure to pay fine**

99. If listed entity fails to pay any fine imposed on it within such period as specified from time to time, by the recognised stock exchange(s), after a notice in writing has been served on it, the stock exchange may initiate action.

## CHAPTER XI-A



### POWER TO RELAX STRICT ENFORCEMENT OF THE REGULATIONS

#### Exemption from enforcement of the regulations in special cases.

- 99A.** (1) The Board may, exempt any person or class of persons from the operation of all or any of the provisions of these regulations for a period as may be specified but not exceeding twelve months, for furthering innovation in technological aspects relating to testing new products, processes, services, business models, etc. in live environment of regulatory sandbox in the securities markets.
- (2) Any exemption granted by the Board under sub-regulation (1) shall be subject to the applicant satisfying such conditions as may be specified by the Board including conditions to be complied with on a continuous basis.

**Explanation** — For the purposes of these regulations, "regulatory sandbox" means a live testing environment where new products, processes, services, business models, etc. may be deployed on a limited set of eligible customers for a specified period of time, for furthering innovation in the securities market, subject to such conditions as may be specified by the Board.]

## CHAPTER XII



### MISCELLANEOUS

#### Amendments to other regulations

- 100.** The regulations specified in the Schedule IX to these regulations shall be amended in the manner and to the extent stated therein.

#### Power to remove difficulties

- 101.** (1) In order to remove any difficulties in the application or interpretation of these regulations, the Board may issue clarifications through guidance notes or circulars after recording reasons in writing.
- (2) In particular, and without prejudice to the generality of the foregoing power, such guidance notes or circulars may provide for all or any of the following matters, namely:
- (a) procedural aspects including intimation to be given, documents to be submitted;
  - (b) disclosure requirements;

- (c) listing conditions.

### Power to relax strict enforcement of the regulations

102. (1) The Board may in the interest of investors and securities market and for the development of the securities market, relax the strict enforcement of any requirement of these regulations, if the Board is satisfied that:
- (a) any provision of Act(s), Rule(s), regulation(s) under which the listed entity is established or is governed by, is required to be given precedence to; or
  - (b) the requirement may cause undue hardship to investors; or
  - (c) the disclosure requirement is not relevant for a particular industry or class of listed entities; or
  - (d) the requirement is technical in nature; or
  - (e) the non-compliance is caused due to factors affecting a class of entities but being beyond the control of the entities.
- (2) For seeking relaxation under sub-regulation (1), an application, giving details and the grounds on which such relaxation has been sought, shall be filed with the Board.
- (3) The application referred to under sub-regulation (2) shall be accompanied by a non-refundable fee of rupees one lakh payable by way of direct credit in the bank account through NEFT/ RTGS/ IMPS or any other mode allowed by Reserve Bank of India or by way of a demand draft in favour of the Board payable in Mumbai.

### Repeal and Savings

103. (1) On and from the commencement of these regulations, all circulars stipulating or modifying the provisions of the listing agreements including those specified in **Schedule X**, shall stand rescinded.
- (2) Notwithstanding such rescission, anything done or any action taken or purported to have been done or taken including any enquiry or investigation commenced or show cause notice issued in respect of the circulars specified in sub-regulation (1) or the Listing Agreements, entered into between stock exchange(s) and listed entity, in force prior to the commencement of these regulations, shall be deemed to have been done or taken under the corresponding provisions of these regulations.



# SEBI (PROHIBITION OF INSIDER TRADING) REGULATIONS, 2015



## CHAPTER – I



### PRELIMINARY

#### Short title and commencement

1. (1) These regulations may be called the SEBI (Prohibition of Insider Trading) Regulations, 2015.
- (2) These regulations shall come into force on the one hundred and twentieth day from the date of its publication in the Official Gazette.

#### Definitions.

2. (1) In these regulations, unless the context otherwise requires, the following words, expressions and derivations therefrom shall have the meanings assigned to them as under:–
  - (a) “Act” means the Securities and Exchange Board of India Act, 1992 (15 of 1992);
  - (b) “Board” means the Securities and Exchange Board of India;
  - (c) “compliance officer” means any senior officer, designated so and reporting to the board of directors or head of the organization in case board is not there, who is financially literate and is capable of appreciating requirements for legal and regulatory compliance under these regulations and who shall be responsible for compliance of policies, procedures, maintenance of records, monitoring adherence to the rules for the preservation of unpublished price

sensitive information, monitoring of trades and the implementation of the codes specified in these regulations under the overall supervision of the board of directors of the listed company or the head of an organization, as the case maybe.

Explanation – For the purpose of this regulation, “financially literate” shall mean a person who has the ability to read and understand basic financial statements i.e. balance sheet, profit and loss account, and statement of cash flows;

- (d) "connected person "means,-
- (i) any person who is or has during the six months prior to the concerned act been associated with a company, directly or indirectly, in any capacity including by reason of frequent communication with its officers or by being in any contractual, fiduciary or employment relationship or by being a director, officer or an employee of the company or holds any position including a professional or business relationship between himself and the company whether temporary or permanent, that allows such person, directly or indirectly, access to unpublished price sensitive information or is reasonably expected to allow such access.
  - (ii) Without prejudice to the generality of the foregoing, the persons falling within the following categories shall be deemed to be connected persons unless the contrary is established,-
    - (a) an immediate relative of connected persons specified in clause (i);or
    - (b) a holding company or associate company or subsidiary company;or
    - (c) an intermediary as specified in section 12 of the Act or an employee or director thereof;or
    - (d) an investment company, trustee company, asset management company or an employee or director thereof;or
    - (e) an official of a stock exchange or of clearing house or corporation;or
    - (f) a member of board of trustees of a mutual fund or a member of the board of directors of the asset management company of a mutual fund or is an employee thereof;or
    - (g) a member of the board of directors or an employee, of a public

financial institution as defined in section 2 (72) of the Companies Act, 2013;or

- (h) an official or an employee of a self-regulatory organization recognised or authorized by the Board;or
- (i) a banker of the company; or
- (j) a concern, firm, trust, Hindu undivided family, company or association of persons wherein a director of a company or his immediate relative or banker of the company, has more than ten per cent. of the holding or interest;

**NOTE:** It is intended that a connected person is one who has a connection with the company that is expected to put him in possession of unpublished price sensitive information. Immediate relatives and other categories of persons specified above are also presumed to be connected persons but such a presumption is a deeming legal fiction and is rebuttable. This definition is also intended to bring into its ambit persons who may not seemingly occupy any position in a company but are in regular touch with the company and its officers and are involved in the know of the company's operations. It is intended to bring within its ambit those who would have access to or could access unpublished price sensitive information about any company or class of companies by virtue of any connection that would put them in possession of unpublished price sensitive information.

- (e) "generally available information" means information that is accessible to the public on a non-discriminatory basis;

**NOTE:** *It is intended to define what constitutes generally available information so that it is easier to crystallize and appreciate what unpublished price sensitive information is. Information published on the website of a stock exchange, would ordinarily be considered generally available.*

- (f) "immediate relative" means a spouse of a person, and includes parent, sibling, and child of such person or of the spouse, any of whom is either dependent financially on such person, or consults such person in taking decisions relating to trading in securities;

**NOTE:** *It is intended that the immediate relatives of a "connected person" too become connected persons for purposes of these regulations. Indeed, this is a rebuttable presumption.*

- (g) "insider" means any person who is:
- (i) a connected person; or
  - (ii) in possession of or having access to unpublished price sensitive information;

**NOTE:** Since "generally available information" is defined, it is intended that anyone in possession of or having access to unpublished price sensitive information should be considered an "insider" regardless of how one came in possession of or had access to such information. Various circumstances are provided for such a person to demonstrate that he has not indulged in insider trading. Therefore, this definition is intended to bring within its reach any person who is in receipt of or has access to unpublished price sensitive information. The onus of showing that a certain person was in possession of or had access to unpublished price sensitive information at the time of trading would, therefore, be on the person leveling the charge after which the person who has traded when in possession of or having access to unpublished price sensitive information may demonstrate that he was not in such possession or that he has not traded or he could not access or that his trading when in possession of such information was squarely covered by the exonerating circumstances.

- (h) "promoter" shall have the meaning assigned to it under the Securities and Exchange Board of India (Issue of Capital and Disclosure Requirements) Regulations, 2018 or any modification hereof;
- (ha) "promoter group" shall have the meaning assigned to it under the Securities and Exchange Board of India (Issue of Capital and Disclosure Requirements) Regulations, 2018 or any modification thereof;
- (hb) "proposed to be listed" shall include securities of an unlisted company:
- (i) if such unlisted company has filed offer documents or other documents, as the case may be, with the Board, stock exchange(s) or registrar of companies in connection with the listing; or
  - (ii) if such unlisted company is getting listed pursuant to any merger or amalgamation and has filed a copy of such scheme of merger or amalgamation under the Companies Act, 2013;
- (i) "securities" shall have the meaning assigned to it under the Securities Contracts (Regulation) Act, 1956 (42 of 1956) or any modification thereof except units of a mutual fund;
- (j) "specified" means specified by the Board in writing;

- (k) "takeover regulations" means the Securities and Exchange Board of India (Substantial Acquisition of Shares and Takeovers) Regulations, 2011 and any amendments thereto;
- (l) "trading" means and includes subscribing, buying, selling, dealing, or agreeing to subscribe, buy, sell, deal in any securities, and "trade" shall be construed accordingly;

**NOTE:** Under the parliamentary mandate, since the Section 12A (e) and Section 15G of the Act employs the term 'dealing in securities', it is intended to widely define the term "trading" to include dealing. Such a construction is intended to curb the activities based on unpublished price sensitive information which are strictly not buying, selling or subscribing, such as pledging etc when in possession of unpublished price sensitive information.

- (m) "trading day" means a day on which the recognized stock exchanges are open for trading;
- (n) "unpublished price sensitive information" means any information, relating to a company or its securities, directly or indirectly, that is not generally available which upon becoming generally available, is likely to materially affect the price of the securities and shall, ordinarily including but not restricted to, information relating to the following:–
  - (i) financial results;
  - (ii) dividends;
  - (iii) change in capital structure;
  - (iv) mergers, de-mergers, acquisitions, delistings, disposals and expansion of business and such other transactions;
  - (v) changes in key managerial personnel.

**NOTE:** It is intended that information relating to a company or securities, that is not generally available would be unpublished price sensitive information if it is likely to materially affect the price upon coming into the public domain. The types of matters that would ordinarily give rise to unpublished price sensitive information have been listed above to give illustrative guidance of unpublished price sensitive information.

- (2) Words and expressions used and not defined in these regulations but defined in the Securities and Exchange Board of India Act, 1992 (15 of 1992), the Securities Contracts (Regulation) Act, 1956 (42 of 1956), the Depositories Act, 1996 (22 of 1996) or the Companies Act, 2013 (18 of 2013) and rules and regulations made thereunder shall have the meanings respectively assigned to them in those legislation.

## CHAPTER – II



### RESTRICTIONS ON COMMUNICATION AND TRADING BY INSIDERS

#### COMMUNICATION OR PROCUREMENT OF UNPUBLISHED PRICE SENSITIVE INFORMATION.

3. (1) No insider shall communicate, provide, or allow access to any unpublished price sensitive information, relating to a company or securities listed or proposed to be listed, to any person including other insiders except where such communication is in furtherance of legitimate purposes, performance of duties or discharge of legal obligations.

**NOTE:** *This provision is intended to cast an obligation on all insiders who are essentially persons in possession of unpublished price sensitive information to handle such information with care and to deal with the information with them when transacting their business strictly on a need-to-know basis. It is also intended to lead to organisations developing practices based on need-to-know principles for treatment of information in their possession.*

- (2) No person shall procure from or cause the communication by any insider of unpublished price sensitive information, relating to a company or securities listed or proposed to be listed, except in furtherance of legitimate purposes, performance of duties or discharge of legal obligations.

**NOTE:** *This provision is intended to impose a prohibition on unlawfully procuring possession of unpublished price sensitive information. Inducement and procurement of unpublished price sensitive information not in furtherance of one's legitimate duties and discharge of obligations would be illegal under this provision.*

- (2A) The board of directors of a listed company shall make a policy for determination of "legitimate purposes" as a part of "Codes of Fair Disclosure and Conduct" formulated under regulation 8.

Explanation – For the purpose of illustration, the term "legitimate purpose" shall include sharing of unpublished price sensitive information in the ordinary course of business by an insider with partners, collaborators, lenders, customers, suppliers, merchant bankers, legal advisors, auditors, insolvency professionals or other advisors or consultants, provided that such sharing has not been carried out to evade or circumvent the prohibitions of these regulations.

- (2B) Any person in receipt of unpublished price sensitive information pursuant to a "legitimate purpose" shall be considered an "insider" for purposes of these regulations and due notice shall be given to such persons to maintain confidentiality of such unpublished price sensitive information in compliance with these regulations.

- (3) Notwithstanding anything contained in this regulation, an unpublished price sensitive information may be communicated, provided, allowed access to or procured, in connection with a transaction that would:–
- (i) entail an obligation to make an open offer under the takeover regulations where the board of directors of the listed company is of informed opinion that sharing of such information is in the best interests of the company;
- NOTE:** *It is intended to acknowledge the necessity of communicating, providing, allowing access to or procuring UPSI for substantial transactions such as takeovers, mergers and acquisitions involving trading in securities and change of control to assess a potential investment. In an open offer under the takeover regulations, not only would the same price be made available to all shareholders of the company but also all information necessary to enable an informed divestment or retention decision by the public shareholders is required to be made available to all shareholders in the letter of offer under those regulations.*
- (ii) not attract the obligation to make an open offer under the takeover regulations but where the board of directors of the listed company is of informed opinion that sharing of such information is in the best interests of the company and the information that constitute unpublished price sensitive information is disseminated to be made generally available at least two trading days prior to the proposed transaction being effected in such form as the board of directors may determine to be adequate and fair to cover all relevant and material facts.
- NOTE:** *It is intended to permit communicating, providing, allowing access to or procuring UPSI also in transactions that do not entail an open offer obligation under the takeover regulations when authorised by the board of directors if sharing of such information is in the best interests of the company. The board of directors, however, would cause public disclosures of such unpublished price sensitive information well before the proposed transaction to rule out any information asymmetry in the market.*
- (4) For purposes of sub-regulation (3), the board of directors shall require the parties to execute agreements to contract confidentiality and non-disclosure obligations on the part of such parties and such parties shall keep information so received confidential, except for the purpose of sub-regulation (3), and shall not otherwise trade in securities of the company when in possession of unpublished price sensitive information.
- (5) The board of directors or head(s) of the organisation of every person required to handle unpublished price sensitive information shall ensure that a structured digital

database is maintained containing the nature of unpublished price sensitive information and the names of such persons who have shared the information and also the names of such persons with whom information is shared under this regulation along with the Permanent Account Number or any other identifier authorized by law where Permanent Account Number is not available. Such database shall not be outsourced and shall be maintained internally with adequate internal controls and checks such as time stamping and audit trails to ensure non-tampering of the database.

- (6) The board of directors or head(s) of the organisation of every person required to handle unpublished price sensitive information shall ensure that the structured digital database is preserved for a period of not less than eight years after completion of the relevant transactions and in the event of receipt of any information from the Board regarding any investigation or enforcement proceedings, the relevant information in the structured digital database shall be preserved till the completion of such proceedings.

#### **TRADING WHEN IN POSSESSION OF UNPUBLISHED PRICE SENSITIVE INFORMATION.**

4. (1) No insider shall trade in securities that are listed or proposed to be listed on a stock exchange when in possession of unpublished price sensitive information:

**Explanation** – When a person who has traded in securities has been in possession of unpublished price sensitive information, his trades would be presumed to have been motivated by the knowledge and awareness of such information in his possession.

**Provided that** the insider may prove his innocence by demonstrating the circumstances including the following: –

- (i) the transaction is an off-market *inter-se* transfer between insiders who were in possession of the same unpublished price sensitive information without being in breach of regulation 3 and both parties had made a conscious and informed trade decision.

**Provided that** such unpublished price sensitive information was not obtained under sub-regulation (3) of regulation 3 of these regulations.

**Provided further** that such off-market trades shall be reported by the insiders to the company within two working days. Every company shall notify the particulars of such trades to the stock exchange on which the securities are listed within two trading days from receipt of the disclosure or from becoming aware of such information.

- (ii) the transaction was carried out through the block deal window mechanism between persons who were in possession of the unpublished price sensitive information without being in breach of regulation 3 and both parties had made a conscious and informed trade decision;

**Provided that** such unpublished price sensitive information was not obtained by either person under sub-regulation (3) of regulation 3 of these regulations.

- (iii) the transaction in question was carried out pursuant to a statutory or regulatory obligation to carry out a bona fide transaction.
- (iv) the transaction in question was undertaken pursuant to the exercise of stock options in respect of which the exercise price was pre-determined in compliance with applicable regulations.
- (v) in the case of non-individual insiders:–
  - (a) the individuals who were in possession of such unpublished price sensitive information were different from the individuals taking trading decisions and such decision-making individuals were not in possession of such unpublished price sensitive information when they took the decision to trade; and
  - (b) appropriate and adequate arrangements were in place to ensure that these regulations are not violated and no unpublished price sensitive information was communicated by the individuals possessing the information to the individuals taking trading decisions and there is no evidence of such arrangements having been breached;
- (vi) the trades were pursuant to a trading plan set up in accordance with regulation 5.

**NOTE:** *When a person who has traded in securities has been in possession of unpublished price sensitive information, his trades would be presumed to have been motivated by the knowledge and awareness of such information in his possession. The reasons for which he trades or the purposes to which he applies the proceeds of the transactions are not intended to be relevant for determining whether a person has violated the regulation. He traded when in possession of unpublished price sensitive information is what would need to be demonstrated at the outset to bring a charge. Once this is established, it would be open to the insider to prove his innocence by demonstrating the circumstances mentioned in the proviso, failing which he would have violated the prohibition.*

- (2) In the case of connected persons the onus of establishing, that they were not in possession of unpublished price sensitive information, shall be on such connected persons and in other cases, the onus would be on the Board.
- (3) The Board may specify such standards and requirements, from time to time, as it may deem necessary for the purpose of these regulations.

**TRADING PLANS.**

5. (1) An insider shall be entitled to formulate a trading plan and present it to the compliance officer for approval and public disclosure pursuant to which trades may be carried out on his behalf in accordance with such plan.

***NOTE:*** *This provision intends to give an option to persons who may be perpetually in possession of unpublished price sensitive information and enabling them to trade in securities in a compliant manner. This provision would enable the formulation of a trading plan by an insider to enable him to plan for trades to be executed in future. By doing so, the possession of unpublished price sensitive information when a trade under a trading plan is actually executed would not prohibit the execution of such trades that he had pre-decided even before the unpublished price sensitive information came into being.*

- (2) Such trading plan shall:–

- (i) not entail commencement of trading on behalf of the insider earlier than six months from the public disclosure of the plan;

***NOTE:*** *It is intended that to get the benefit of a trading plan, a cool-off period of six months is necessary. Such a period is considered reasonably long for unpublished price sensitive information that is in possession of the insider when formulating the trading plan, to become generally available. It is also considered to be a reasonable period for a time lag in which new unpublished price sensitive information may come into being without adversely affecting the trading plan formulated earlier. In any case, it should be remembered that this is only a statutory cool-off period and would not grant immunity from action if the insider were to be in possession of the same unpublished price sensitive information both at the time of formulation of the plan and implementation of the same.*

- (ii) not entail trading for the period between the twentieth trading day prior to the last day of any financial period for which results are required to be announced by the issuer of the securities and the second trading day after the disclosure of such financial results;

***NOTE:*** *Since the trading plan is envisaged to be an exception to the general rule prohibiting trading by insiders when in possession of unpublished price sensitive information, it is important that the trading plan does not entail trading for a reasonable period around the declaration of financial results as that would generate unpublished price sensitive information.*

- (iii) entail trading for a period of not less than twelve months;

**NOTE:** It is intended that it would be undesirable to have frequent announcements of trading plans for short periods of time rendering meaningless the defence of a reasonable time gap between the decision to trade and the actual trade. Hence it is felt that a reasonable time would be twelve months.

- (iv) not entail overlap of any period for which another trading plan is already in existence;

**NOTE:** It is intended that it would be undesirable to have multiple trading plans operating during the same time period. Since it would be possible for an insider to time the publication of the unpublished price sensitive information to make it generally available instead of timing the trades, it is important not to have the ability to initiate more than one plan covering the same time period.

- (v) set out either the value of trades to be effected or the number of securities to be traded along with the nature of the trade and the intervals at, or dates on which such trades shall be effected; and

**NOTE:** It is intended that while regulations should not be too prescriptive and rigid about what a trading plan should entail, they should stipulate certain basic parameters that a trading plan should conform to and within which, the plan may be formulated with full flexibility. The nature of the trades entailed in the trading plan i.e. acquisition or disposal should be set out. The trading plan may set out the value of securities or the number of securities to be invested or divested. Specific dates or specific time intervals may be set out in the plan.

- (vi) not entail trading in securities for market abuse.

**NOTE:** Trading on the basis of such a trading plan would not grant absolute immunity from bringing proceedings for market abuse. For instance, in the event of manipulative timing of the release of unpublished price sensitive information to ensure that trading under a trading plan becomes lucrative in circumvention of regulation 4 being detected, it would be open to initiate proceedings for alleged breach of SEBI(Prohibition of Fraudulent and Unfair Trade Practices Relating to the Securities Market) Regulations, 2003.

- (3) The compliance officer shall review the trading plan to assess whether the plan would have any potential for violation of these regulations and shall be entitled to seek such express undertakings as may be necessary to enable such assessment and to approve and monitor the implementation of the plan.

**Provided that** pre-clearance of trades shall not be required for a trade executed as per an approved trading plan.

**Provided further** that trading window norms and restrictions on contra trade shall not be applicable for trades carried out in accordance with an approved trading plan.

**NOTE:** *It is intended that the compliance officer would have to review and approve the plan. For doing so, he may need the insider to declare that he is not in possession of unpublished price sensitive information or that he would ensure that any unpublished price sensitive information in his possession becomes generally available before he commences executing his trades. Once satisfied, he may approve the trading plan, which would then have to be implemented in accordance with these regulations.*

- (4) The trading plan once approved shall be irrevocable and the insider shall mandatorily have to implement the plan, without being entitled to either deviate from it or to execute any trade in the securities outside the scope of the trading plan.

**Provided that** the implementation of the trading plan shall not be commenced if any unpublished price sensitive information in possession of the insider at the time of formulation of the plan has not become generally available at the time of the commencement of implementation and in such event the compliance officer shall confirm that the commencement ought to be deferred until such unpublished price sensitive information becomes generally available information so as to avoid a violation of sub-regulation (1) of regulation 4.

**NOTE:** *It is intended that since the trading plan is an exception to the general rule that an insider should not trade when in possession of unpublished price sensitive information, changing the plan or trading outside the same would negate the intent behind the exception. Other investors in the market, too, would factor the impact of the trading plan on their own trading decisions and in price discovery. Therefore, it is not fair or desirable to permit the insider to deviate from the trading plan based on which others in the market have assessed their views on the securities.*

*The proviso is intended to address the prospect that despite the six-month gap between the formulation of the trading plan and its commencement, the unpublished price sensitive information in possession of the insider is still not generally available. In such a situation, commencement of the plan would conflict with the over-riding principle that trades should not be executed when in possession of such information. If the very same unpublished price sensitive information is still in the insider's possession, the commencement of execution of the trading plan ought to be deferred.*

- (5) Upon approval of the trading plan, the compliance officer shall notify the plan to the stock exchanges on which the securities are listed.

**NOTE:** *It is intended that given the material exception to the prohibitory rule in regulation 4, a trading plan is required to be publicly disseminated. Investors in the market at large would also factor the potential pointers in the trading plan in their own assessment of the securities and price discovery for them on the premise of how the insiders perceive the prospects or approach the securities in their trading plan.*

## CHAPTER – III



### DISCLOSURES OF TRADING BY INSIDERS

#### General provisions.

6. (1) Every public disclosure under this Chapter shall be made in such form as may be specified.
- (2) The disclosures to be made by any person under this Chapter shall include those relating to trading by such person's immediate relatives, and by any other person for whom such person takes trading decisions.

**NOTE:** *It is intended that disclosure of trades would need to be of not only those executed by the person concerned but also by the immediate relatives and of other persons for whom the person concerned takes trading decisions. These regulations are primarily aimed at preventing abuse by trading when in possession of unpublished price sensitive information and therefore, what matters is whether the person who takes trading decisions is in possession of such information rather than whether the person who has title to the trades is in such possession.*

- (3) The disclosures of trading in securities shall also include trading in derivatives of securities and the traded value of the derivatives shall be taken into account for purposes of this Chapter:

**Provided that** trading in derivatives of securities is permitted by any law for the time being in force.

- (4) The disclosures made under this Chapter shall be maintained by the company, for a minimum period of five years, in such form as may be specified.

#### DISCLOSURES BY CERTAIN PERSONS.

7. (1) *Initial Disclosures.*

Every person on appointment as a key managerial personnel or a director of the company or upon becoming a promoter or member of the promoter group] shall disclose his holding of securities of the company as on the date of appointment or becoming a promoter, to the company within seven days of such appointment or becoming a promoter.

- (2) *Continual Disclosures.*

- (a) Every promoter member of the promoter group designated person and director of every company shall disclose to the company the number of such securities acquired or disposed of within two trading days of such transaction if the value of the securities traded, whether in one transaction or a series of

transactions over any calendar quarter, aggregates to a traded value in excess of ten lakh rupees or such other value as may be specified;

- (b) Every company shall notify the particulars of such trading to the stock exchange on which the securities are listed within two trading days of receipt of the disclosure or from becoming aware of such information.

Explanation. — It is clarified for the avoidance of doubts that the disclosure of the incremental transactions after any disclosure under this sub-regulation, shall be made when the transactions effected after the prior disclosure cross the threshold specified in clause (a) of sub-regulation (2).

- (c) The above disclosures shall be made in such form and such manner as may be specified by the Board from time to time.

#### **Disclosures by other connected persons.**

- (3) Any company whose securities are listed on a stock exchange may, at its discretion require any other connected person or class of connected persons to make disclosures of holdings and trading in securities of the company in such form and at such frequency as may be determined by the company in order to monitor compliance with these regulations.

***NOTE:*** This is an enabling provision for listed companies to seek information from those to whom it has to provide unpublished price sensitive information. This provision confers discretion on any company to seek such information. For example, a listed company may ask that a management consultant who would advise it on corporate strategy and would need to review unpublished price sensitive information, should make disclosures of his trades to the company.

## **CHAPTER – IIIA**

### **Definitions.**

- 7A.** (1) In this Chapter, unless the context otherwise requires:-
- (a) 'Investor Protection and Education Fund' means the Investor Protection and Education Fund created by the Board under section 11 of the Act;
- (b) 'Informant' means an individual(s), who voluntarily submits to the Board a Voluntary Information Disclosure Form relating to an alleged violation of insider trading laws that has occurred, is occurring or has a reasonable belief that it is about to occur, in a manner provided under these regulations, regardless of whether such individual(s) satisfies the requirements, procedures and conditions to qualify for a reward;

- (c) 'Informant Incentive Committee' means the High Powered Advisory Committee constituted by the Board in the manner as may be specified under regulation 11 of the Securities and Exchange Board of India (Settlement Proceedings) Regulations, 2018.
- (d) 'insider trading laws' means the following provisions of securities laws,-
  - i. Section 15G of the Act;
  - ii. regulation 3 of these regulations;
  - iii. regulation 4 of these regulations;
  - iv. regulation 5 of these regulations; and
  - v. regulation 9 or regulation 9A of these regulations, in so far as they pertain to trading or communication of unpublished price sensitive information.
- (e) 'irrelevant, vexatious and frivolous information' includes, reporting of information which in the opinion of the Board, -
  - (i) Does not constitute a violation of insider trading laws; or
  - (ii) Is rendered solely for the purposes of malicious prosecution; or
  - (iii) Is rendered intentionally in an effort to waste the time and resource of the Board.
- (f) 'Legal Representative' means a duly authorised individual who is admitted to the practice of law in India;
- (g) 'Monetary Sanctions' shall mean any non-monetary settlement terms or any direction of the Board, in the nature of disgorgement under securities laws aggregating to at least Rupees one crore arising from the same operative facts contained in the original information.
- (h) 'Original Information' means any relevant information submitted in accordance with these regulations pertaining to any violation of insider trading laws that is:-
  - (i) derived from the independent knowledge and analysis of the Informant;
  - (ii) not known to the Board from any other source, except where the Informant is the original source of the information;
  - (iii) is sufficiently specific, credible and timely to - (1) commence an examination or inquiry or audit, (2) assist in an ongoing examination or investigation or inquiry or audit, (3) open or re-open an investigation or inquiry, or (4) inquire into a different conduct as part of an ongoing examination or investigation or inquiry or audit directed by the Board;

Information shall be considered timely, only if as on the date of receipt of the duly completed Voluntary Information Disclosure Form by the Board, a period of not more than three years has elapsed since the date on which the first alleged trade constituting violation of insider trading laws was executed;

- (iv) not exclusively derived from an allegation made in a judicial or administrative hearing, in a Governmental report, hearing, audit, or investigation, or from the news media, except where the Informant is the original source of the information; and
- (v) not irrelevant or frivolous or vexatious.

*Explanation.* –Information which does not in the opinion of the Board add to the information already possessed by the Board is not original information.

- (i) ‘own analysis’ means the examination and evaluation of the relevant information by the Informant that may be publicly available, but which reveals analysis that is not known to SEBI:

Provided that such analysis is not derived from professional or confidential communication protected under the Indian Evidence Act, 1872 (1 of 1872);

- (j) ‘own knowledge’ means relevant information in the possession of the Informant not derived from publicly available sources:

Provided that such knowledge is not derived from professional or confidential communications protected under the Indian Evidence Act, 1872 (1 of 1872);

- (k) ‘Reward’ means any gratuitous monetary amount for which an Informant is declared eligible as per the provisions of these regulations;

- (l) ‘securities laws’ means the Act, the Securities Contract (Regulations) Act, 1956 (42 of 1956), the Depositories Act, 1996 (22 of 1996), the relevant provisions of any other law to the extent it is administered by the Board and the relevant rules and regulations made thereunder;

- (m) ‘voluntarily providing information’ means providing the Board with information before receiving any request, inquiry, or demand from the Board, any other Central or State authorities or other statutory authority about a matter, to which the information is relevant;

- (2) Words and expressions used but not defined in these regulations but defined in securities laws, shall have the same meanings respectively assigned to them in those laws or any statutory modification or re-enactment thereto.

**Submission of Original Information to the Board**

- 7B. (1) An Informant shall submit Original Information by furnishing the Voluntary Information Disclosure Form to the Office of Informant Protection of the Board in the format and manner set out in Schedule D. The Voluntary Information Disclosure Form may be submitted through informant's legal representative:

Provided that where the Informant does not submit the Voluntary Information Disclosure Form through a legal representative, the Board may require such Informant to appear in person to ascertain his/her identity and the veracity of the information so provided.

*Explanation.* – Where any information pertaining to any violation of the Securities Laws is received in a manner not in accordance with the manner provided under these regulations, the Board may require such information to be filed with it in accordance with these regulations or reject the same.

- (2) The legal representative shall,-
- i. Verify the identity and contact details of the Informant;
  - ii. Unless otherwise required by the Board, maintain confidentiality of the identity and existence of the Informant, including the original Voluntary Information Disclosure Form;
  - iii. Undertake and certify that he/she,-
    - (a) Has reviewed the completed and signed Voluntary Information Disclosure Form for completeness and accuracy and that the information contained therein is true, correct and complete to the best of his/her knowledge;
    - (b) Has obtained a irrevocable consent from the Informant to provide to the Board with original Voluntary Information Disclosure Form whenever required by the Board; and
    - (c) Agrees to be legally obligated to provide the original Voluntary Information Disclosure Form within seven (7) calendar days of receiving such requests from the Board.
  - iv. Submits to the Board, the copy of the Voluntary Information Disclosure Form in the manner provided in Schedule D of these regulations along with a signed certificate as required under clause (iii) of this sub-regulation (2).
- (3) An Informant shall while submitting the Voluntary Information Disclosure Form shall expunge such information from the content of the information which could reasonably be expected to reveal his or her identity and in case where such information cannot be expunged, the Informant may identify such part of information or any document

that the Informant believes could reasonably be expected to reveal his or her identity.

### **Receipt of Original Information by the Board**

- 7C.** (1) The Board may designate a division to function as the independent Office of Informant Protection.
- (2) The Office of Informant Protection shall perform such functions as may be specified by the Board, including,-
- i. Receiving and registering the Voluntary Information Disclosure Form;
  - ii. Making all necessary communications with the Informant;
  - iii. Maintaining a hotline for the benefit of potential Informant;
  - iv. Maintaining confidentiality of the legal representative of the Informant and act as an interface between the Informant and the officers of the Board;
  - v. Interacting with the Informant Incentive Committee;
  - vi. Issuing press releases and rewards relating to Informant; and
  - vii. Submitting an annual report to the Board relating to the functioning of the Office of Informant Protection.
- (3) On receipt of the Voluntary Information Disclosure Form, the Office of Informant Protection shall communicate the substance of the information along with the evidence submitted by the informant to the relevant department or division of the Board for examination and initiation of necessary action, if any.
- (4) The Board shall not be required to send any intimation or acknowledgement to the Informant or any other person, of the examination or action initiated by the Board, if any, pursuant to receipt of the Voluntary Information Disclosure Form or information under these regulations, including rejection thereof.

### **Informant Reward.**

- 7D.** (1) Upon collection or substantial recovery of the monetary sanctions amounting to at least twice the Reward, the Board may at its sole discretion, declare an Informant eligible for Reward and intimate the Informant or his or her legal representative to file an application in the format provided in Schedule-E for claiming such Reward:

Provided that the amount of Reward shall be ten percent of the monetary sanctions collected or recovered and shall not exceed Rupees One crore or such higher amount as the Board may specify from time to time:

Provided further that the Board may if deemed fit, out of the total Reward payable, grant an interim reward not exceeding Rupees Ten lacs or such higher amount as

the Board may specify from time to time, on the issue of final order by the Board against the person directed to disgorge.

- (2) In case of more than one Informant jointly providing the Original Information, the Reward, as specified in the intimation under sub-regulation (1), shall be divided equally amongst the total number of Informants.
- (3) The Reward under these regulations shall be paid from the Investor Protection and Education Fund.

#### **Determination of amount of Reward.**

- 7E.** (1) The amount of the Reward, if payable, shall be determined by the Board.
- (2) While determining the amount of Reward under sub-regulation (1), the Board may specify the factors that may be taken into consideration by the Informant Incentive Committee.
  - (3) An Informant may be eligible for a Reward whether or not he reported the matter to his organization as per its internal legal and compliance procedures and irrespective of such organization's compliance officer subsequently providing the same Information to the Board.

#### **Application for Reward.**

- 7F.** (1) Informants who are considered tentatively eligible for a Reward, shall submit the Informant Reward Claim Form set out in Schedule E to the Board within the period specified in the intimation sent by the Board.
- (2) Prior to the payment of a Reward, an Informant shall directly or through his or her legal representative, disclose his or her identity and provide such other information as the Board may require.

#### **Rejection of claim for Reward.**

**7G.** No Reward shall be made to an Informant:-

- (1) who does not submit original information;
- (2) who has acquired the Original Information, through or as a member, officer, or an employee of:-
  - (i) any regulatory agency constituted by or under any law in India or outside India, including the Board;
  - (ii) any self-regulatory organization;
  - (iii) the surveillance or investigation wings of any recognised stock exchange or clearing corporation; or

- (iv) any law enforcement organization including the police or any central or state revenue authorities.
- (3) against whom the Board may initiate or has initiated criminal proceedings under securities laws;
- (4) who wilfully refused to cooperate with the Board during its course of investigation, inquiry, audit, examination or other proceedings under securities laws;
- (5) who:
  - (i) knowingly makes any false, fictitious, or fraudulent statement or representation; or
  - (ii) uses any false writing or document knowing that the writing or document contains any false, fictitious, or fraudulent statement or entry; or
  - (iii) fails to furnish the complete information available with him or accessible by him in relation to the alleged violation.
- (6) who is obligated, under any law or otherwise, to report such Original Information to the Board, including a compliance officer under securities laws.

Provided that the Board may if deemed fit, at its sole discretion, exempt a person from any of these disqualifications.

**Informant confidentiality.**

- 7H.** (1) Any information including Original Information may, at the discretion of the Board, be made available:
- (a) when it is required to be disclosed in connection with any legal proceedings in furtherance of the Board's legal position;
  - (b) as permitted by these regulations; or
  - (c) as may be otherwise required or permitted by law.
- (2) Original Information may, at the discretion of the Board, be made available to -
- (i) any regulatory agency constituted by or under any law in India or outside India;
  - (ii) any self-regulatory organization;
  - (iii) the surveillance or investigation wings of any recognised stock exchange or clearing corporation; or
  - (iv) any law enforcement organization including the police or any central or state revenue authorities; or
  - (v) a public prosecutor in connection with any criminal proceedings.

Provided that sharing of information shall be in accordance with such assurances of confidentiality as the Board determines appropriate.

*Explanation* - Nothing in these regulations is intended to limit, or shall be construed to limit, the ability of the public prosecutor to share such evidence with potential witnesses or accused in connection with any criminal proceedings.

- (3) The Original Information and identity provided by an Informant shall be held in confidence and exempted from disclosure under clauses (g) and (h) of sub-section (1) of section 8 of the Right to Information Act, 2005 (No. 22 of 2005).
- (4) Subject to the law of evidence for the time being in force, nothing in these regulations shall prejudice the right of the Board to use or to rely on information received otherwise.
- (5) No person shall have the right to compel disclosure of the identity, existence of an Informant or the information provided by an Informant, except to the extent relied upon in any proceeding initiated against such person by the Board.

*Explanation 1.* – The confidentiality in respect of the identity and existence of the Informant shall be maintained throughout the process of investigation, inquiry and examination as well as during any proceedings before the Board and save where the evidence of the Informant is required during such proceedings, advance notice of such evidence may be provided to the noticee at least seven (7) working days prior to the date of the scheduled hearing for evidence.

*Explanation 2.* – In proceedings before any authority other than the Board, the Board may request maintenance of confidentiality of the identity and existence of an Informant in such proceeding.

### **Protection against retaliation and victimisation**

71. (1) Every person required to have a Code of Conduct under these regulations shall ensure that such a Code of Conduct provides for suitable protection against any discharge, termination, demotion, suspension, threats, harassment, directly or indirectly or discrimination against any employee who files a Voluntary Information Disclosure Form, irrespective of whether the information is considered or rejected by the Board or he or she is eligible for a Reward under these regulations, by reason of:
  - (i) filing a Voluntary Information Disclosure Form under these regulations;
  - (ii) testifying in, participating in, or otherwise assisting or aiding the Board in any investigation, inquiry, audit, examination or proceeding instituted or about to be instituted for an alleged violation of insider trading laws or in any manner aiding the enforcement action taken by the Board; or

- (iii) breaching any confidentiality agreement or provisions of any terms and conditions of employment or engagement solely to prevent any employee from cooperating with the Board in any manner.

*Explanation 1.* - For the purpose of this Chapter, “employee” means any individual who during employment may become privy to information relating to violation of insider trading laws and files a Voluntary Information Disclosure Form under these regulations and is a director, partner, regular or contractual employee, but does not include an advocate.

*Explanation 2.* - Nothing in this regulation shall require the employee to establish that,-

- (i) the Board has taken up any enforcement action in furtherance of information provided by such person; or
  - (ii) the information provided fulfils the criteria of being considered as an Original Information under these regulations.
- (2) Nothing in these regulations shall prohibit any Informant who believes that he or she has been subject to retaliation or victimisation by his or her employer, from approaching the competent court or tribunal for appropriate relief.
- (3) Notwithstanding anything contained in sub-regulation (2), any employer who violates this Chapter may be liable for penalty, debarment, suspension, and/or criminal prosecution by the Board, as the case may be:
- Provided that nothing in these regulations will require the Board to direct reinstatement or compensation by an employer.
- (4) Nothing in these regulations shall diminish the rights and privileges of or remedies available to any Informant under any other law in force.

### **Void Agreements**

- 7J.** (1) Any term in an agreement (oral or written) or Code of Conduct, is void in so far as it purports to preclude any person, other than an advocate, from submitting to the Board information relating to the violation of the securities laws that has occurred, is occurring or has a reasonable belief that it would occur.
- (2) No person shall by way of any threat or act impede an individual from communicating with the Board, including enforcing or threatening to enforce, a confidentiality agreement (other than agreements related to legal representations of a client and communications there under) with respect to such communications.

*Explanation.* - No employer shall require an employee to notify him of any Voluntary Information Disclosure Form filed with the Board or to seek its prior permission or consent or guidance of any person engaged by the employer before or after such filing.

**No Amnesty**

- 7K.** (1) Nothing in these regulations shall be deemed to provide any amnesty or immunity to an Informant for violation of securities law.
- (2) Where an action against an Informant is deemed appropriate the Board may take into account the co-operation rendered in the final determination of any penalty, sanction, direction or settlement thereof, as the case may be.
- (3) Where an action against an Informant is deemed appropriate, the Board while determining the value of monetary sanctions shall not take into account the monetary sanctions that the Informant is ordered to pay or that which any other person is ordered to pay if the liability of such other person is based substantially on the conduct that the Informant directed, planned, or initiated.
- (4) An Informant who may be liable for enforcement action by the Board based on his or her conduct in connection with securities laws violations reported in the Voluntary Information Disclosure Form filed with the Board, may simultaneously or at any time thereafter file an application seeking settlement with confidentiality under Chapter IX of the Securities and Exchange Board of India (Settlement Proceedings) Regulations, 2018.
- (5) Notwithstanding any action taken by the Board against an Informant, the Informant may, after payment of any monetary amounts be eligible for a Reward.

**Functions of Informant Incentive Committee**

- 7L.** (1) The Informant Incentive Committee shall be assisted by the Office of Informant Protection.
- (2) The Informant Incentive Committee shall give its recommendations to the Board on the following matters,-
- i. Eligibility of Informant for reward;
  - ii. Determination under regulations 7E and 7G; and
  - iii. Such other issues relating to Informant as the Board may require from time to time.
- (3) The Informant Incentive Committee shall conduct its meetings in the manner specified by the Board in this regard.

**Public dissemination and incentivisation of Informant.**

- 7M.** (1) The Board shall upload on its website the following,-
- i. Annual report of the Office of Informant Protection;

- ii. Press release informing the public that an intimation to the Informant has been issued under Regulation 7D;
- iii. Press release informing the public that a Reward has been paid under these regulations and the amount of Monetary Sanctions recovered pursuant to the information provided by the Informant;
- iv. The Order issuing the Reward;

*Explanation.* – Nothing in this regulation shall require the Board to disclose information that could identify the Informant or the information provided by the Informant.]

## CHAPTER – IV



### CODES OF FAIR DISCLOSURE AND CONDUCT

#### Code of Fair Disclosure.

8. (1) The board of directors of every company, whose securities are listed on a stock exchange, shall formulate and publish on its official website, a code of practices and procedures for fair disclosure of unpublished price sensitive information that it would follow in order to adhere to each of the principles set out in Schedule A to these regulations, without diluting the provisions of these regulations in any manner.

***NOTE:*** This provision intends to require every company whose securities are listed on stock exchanges to formulate a stated framework and policy for fair disclosure of events and occurrences that could impact price discovery in the market for its securities. Principles such as, equality of access to information, publication of policies such as those on dividend, inorganic growth pursuits, calls and meetings with analysts, publication of transcripts of such calls and meetings, and the like are set out in the schedule.

- (2) Every such code of practices and procedures for fair disclosure of unpublished price sensitive information and every amendment thereto shall be promptly intimated to the stock exchanges where the securities are listed.

***NOTE:*** This provision is aimed at requiring transparent disclosure of the policy formulated in sub-regulation(1).

#### Code of Conduct.

9. (1) The board of directors of every listed company and the board of directors or head(s) of the organisation of every intermediary shall ensure that the chief executive officer or managing director shall formulate a code of conduct with their approval to regulate, monitor and report trading by its designated persons and immediate relatives of

designated persons] towards achieving compliance with these regulations, adopting the minimum standards set out in Schedule B (in case of a listed company) and Schedule C (in case of an intermediary) to these regulations, without diluting the provisions of these regulations in any manner.

**Explanation** – For the avoidance of doubt it is clarified that intermediaries, which are listed, would be required to formulate a code of conduct to regulate, monitor and report trading by their designated persons, by adopting the minimum standards set out in Schedule B with respect to trading in their own securities and in Schedule C with respect to trading in other securities.

**NOTE:** *It is intended that every company whose securities are listed on stock exchanges and every intermediary registered with SEBI is mandatorily required to formulate a code of conduct governing trading by designated persons and their immediate relatives. The standards set out in the schedules are required to be addressed by such code of conduct.*

- (2) The board of directors or head(s) of the organisation, of every other person who is required to handle unpublished price sensitive information in the course of business operations shall formulate a code of conduct to regulate, monitor and report trading by their designated persons and immediate relative of designated persons towards achieving compliance with these regulations, adopting the minimum standards set out in Schedule C to these regulations, without diluting the provisions of these regulations in any manner.

**Explanation** - Professional firms such as auditors, accountancy firms, law firms, analysts, insolvency professional entities, consultants, banks etc., assisting or advising listed companies shall be collectively referred to as fiduciaries for the purpose of these regulations.

**NOTE:** *This provision is intended to mandate persons other than listed companies and intermediaries that are required to handle unpublished price sensitive information to formulate a code of conduct governing trading in securities by their designated persons. These entities include professional firms such as auditors, accountancy firms, law firms, analysts, insolvency professional entities, consultants, banks etc., assisting or advising listed companies. Even entities that normally operate outside the capital market may handle unpublished price sensitive information. This provision would mandate all of them to formulate a code of conduct.*

- (3) Every listed company, intermediary and other persons formulating a code of conduct shall identify and designate a compliance officer to administer the code of conduct and other requirements under these regulations.

**NOTE:** This provision is intended to designate a senior officer as the compliance officer with the responsibility to administer the code of conduct and monitor compliance with these regulations.

- (4) For the purpose of sub regulation (1) and (2), the board of directors or such other analogous authority shall in consultation with the compliance officer specify the designated persons to be covered by the code of conduct on the basis of their role and function in the organisation and the access that such role and function would provide to unpublished price sensitive information in addition to seniority and professional designation and shall include:-
- (i) Employees of such listed company, intermediary or fiduciary designated on the basis of their functional role or access to unpublished price sensitive information in the organization by their board of directors or analogous body;
  - (ii) Employees of material subsidiaries of such listed companies designated on the basis of their functional role or access to unpublished price sensitive information in the organization by their board of directors;
  - (iii) All promoters of listed companies and promoters who are individuals or investment companies for intermediaries or fiduciaries;
  - (iv) Chief Executive Officer and employees upto two levels below Chief Executive Officer of such listed company, intermediary, fiduciary and its material subsidiaries irrespective of their functional role in the company or ability to have access to unpublished price sensitive information;
  - (v) Any support staff of listed company, intermediary or fiduciary such as IT staff or secretarial staff who have access to unpublished price sensitive information.

#### **Institutional Mechanism for Prevention of Insider trading.**

- 9A.** (1) The Chief Executive Officer, Managing Director or such other analogous person of a listed company, intermediary or fiduciary shall put in place adequate and effective system of internal controls to ensure compliance with the requirements given in these regulations to prevent insider trading.
- (2) The internal controls shall include the following:
- (a) all employees who have access to unpublished price sensitive information are identified as designated person;
  - (b) all the unpublished price sensitive information shall be identified and its confidentiality shall be maintained as per the requirements of these regulations;
  - (c) adequate restrictions shall be placed on communication or procurement of unpublished price sensitive information as required by these regulations;

- (d) lists of all employees and other persons with whom unpublished price sensitive information is shared shall be maintained and confidentiality agreements shall be signed or notice shall be served to all such employees and persons;
  - (e) all other relevant requirements specified under these regulations shall be complied with;
  - (f) periodic process review to evaluate effectiveness of such internal controls.
- (3) The board of directors of every listed company and the board of directors or head(s) of the organisation of intermediaries and fiduciaries shall ensure that the Chief Executive Officer or the Managing Director or such other analogous person ensures compliance with regulation 9 and sub-regulations (1) and (2) of this regulation.
- (4) The Audit Committee of a listed company or other analogous body for intermediary or fiduciary shall review compliance with the provisions of these regulations at least once in a financial year and shall verify that the systems for internal control are adequate and are operating effectively.
- (5) Every listed company shall formulate written policies and procedures for inquiry in case of leak of unpublished price sensitive information or suspected leak of unpublished price sensitive information, which shall be approved by board of directors of the company and accordingly initiate appropriate inquiries on becoming aware of leak of unpublished price sensitive information or suspected leak of unpublished price sensitive information and inform the Board promptly of such leaks, inquiries and results of such inquiries.
- (6) The listed company shall have a whistle-blower policy and make employees aware of such policy to enable employees to report instances of leak of unpublished price sensitive information.
- (7) If an inquiry has been initiated by a listed company in case of leak of unpublished price sensitive information or suspected leak of unpublished price sensitive information, the relevant intermediaries and fiduciaries shall co-operate with the listed company in connection with such inquiry conducted by listed company.

## CHAPTER – V

### MISCELLANEOUS

#### **Sanction for violations.**

10. Any contravention of these regulations shall be dealt with by the Board in accordance with the Act.

**Power to Remove Difficulties.**

11. (1) In order to remove any difficulties in the interpretation or application of the provisions of these regulations, the Board shall have the power to issue directions through guidance notes or circulars:

**Provided that** where any direction is issued by the Board in a specific case relating to interpretation or application of any provision of these regulations, it shall be done only after affording a reasonable opportunity of being heard to the concerned persons and after recording reasons for the direction.

- [(2) For the purpose of Chapter IIIA, the Board may,-
- i. by circular, specify procedures and processes for carrying out the purposes of these regulations;
  - ii. remove any difficulty in the interpretation or application or implementation of the provisions of these regulations, by issuing clarifications and specifying procedures through circulars or guidelines.]

**Repeal and Savings.**

12. (1) The Securities and Exchange Board of India (Prohibition of Insider Trading) Regulations, 1992 are hereby repealed.
- (2) Notwithstanding such repeal,—
- (a) the previous operation of the repealed regulations or anything duly done or suffered thereunder, any right, privilege, obligation or liability acquired, accrued or incurred under the repealed regulations, any penalty, forfeiture or punishment incurred in respect of any offence committed against the repealed regulations, or any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment as aforesaid, shall remain unaffected as if the repealed regulations had never been repealed; and
  - (b) anything done or any action taken or purported to have been done or taken including any adjudication, enquiry or investigation commenced or show-cause notice issued under the repealed regulations prior to such repeal, shall be deemed to have been done or taken under the corresponding provisions of these regulations;
  - (3) After the repeal of Securities and Exchange Board of India (Prohibition of Insider Trading) Regulations, 1992, any reference thereto in any other regulations made, guidelines or circulars issued thereunder by the Board shall be deemed to be a reference to the corresponding provisions of these regulations.



# SEBI (BUY BACK OF SECURITIES) REGULATIONS, 2018



## CHAPTER – I



### PRELIMINARY

#### Short title and commencement

1. (i) These regulations may be called the Securities and Exchange Board of India (Buy-Back of Securities) Regulations, 2018.
- (ii) These regulations shall come into force on the date of their publication in the Official Gazette.

#### Definitions

2. (i) In these regulations, unless the context otherwise requires:—
  - (a) 'Act' means the Securities and Exchange Board of India Act, 1992 (15 of 1992);
  - (b) 'associate' includes a person,—
    - (i) who directly or indirectly by himself or in combination with relatives, exercise control over the company or,
    - (ii) whose employee, officer or director is also a director, officer or employee of company;
  - (c) "Board" means the Securities and Exchange Board of India established under section 3 of the Act;

- (d) 'Buyback period' means the period between the date of board of directors resolution or date of declaration of results of the postal ballot for special resolution, as the case may be, to authorize buyback of shares of the company and the date on which the payment of consideration to shareholders who have accepted the buyback offer is made;
- (e) 'control' has the same meaning as defined in clause (e) of sub- regulation (1) of regulation (2) of the Securities and Exchange Board of India (Substantial Acquisition of Shares and Takeovers) Regulations, 2011;
- (f) 'company' means a company as defined under the Companies Act, whose shares or other specified securities are listed on a Stock Exchange and which buys or intends to buy such shares or other specified securities in accordance with these regulations;
- (g) 'Companies Act' means the Companies Act,2013.
- (h) 'insider' means an insider as defined in clause(g) of sub-regulation (1) of regulation 2 of the Securities and Exchange Board of India (Prohibition of Insider Trading) Regulations, 2015;
- (i) 'merchant banker' means a merchant banker as defined in clause (cb) of regulation 2 of the Securities and Exchange Board of India (Merchant Bankers) Regulations, 1992 and registered under section 12 of the Act;
- (j) 'odd lots' mean the lots of shares or other specified securities of a company, whose shares are listed on a recognised stock exchange, which are smaller than such marketable lots, as may be specified by the stock exchange;
- (k) 'promoter' means promoter as defined in clause (s) of sub- regulation (1) of regulation 2 of the Securities and Exchange Board of India (Substantial Acquisition of Shares and Takeovers) Regulations, 2011;
- (l) 'registrar' means a registrar to an issue and includes a share transfer agent, registered under section 12 of the Act;
- (m) 'securities' mean securities as defined in clause (h) of section 2 of the Securities Contracts (Regulation) Act, 1956 (42 of 1956);
- (n) 'small shareholder' means a shareholder of a company, who holds shares or other specified securities whose market value, on the basis of closing price of shares or other specified securities, on the recognised stock exchange in which highest trading volume in respect of such securities, as on record date is not more than two lakh rupee;

- (o) 'specified securities' includes employees' stock option or other securities as may be notified by the Central Government from time to time;
- (p) 'statutory auditor' means an auditor appointed by a company under section 139 of the Companies Act;
- (q) 'stock exchange' means a stock exchange which has been granted recognition under section 4 of the Securities Contracts (Regulation) Act, 1956 (42 of 1956);
- (r) 'tender offer' means an offer by a company to buy-back its own shares or other specified securities through a letter of offer from the holders of the shares or other specified securities of the company;
- (s) 'unpublished price sensitive information' has the same meaning as defined in clause (n) of sub-regulation (1) of regulation 2 of the Securities and Exchange Board of India (Prohibition of Insider Trading) Regulations, 2015;
- (t) 'working day' means any working day of the Board.

All other expressions unless defined herein shall have the same meaning as has been assigned to them under the Act or the Securities Contracts (Regulation) Act, 1956, or Companies Act or any statutory modification or re-enactment thereof, as the case may be.

## CHAPTER II

### CONDITIONS OF BUY BACK

#### Applicability:

3. These regulations shall be applicable to buy-back of shares or other specified securities of a company in accordance with the applicable provisions of the Companies Act.

[Explanation: For the purposes of these regulations, the term "shares" shall include equity shares having superior voting rights.]

#### CONDITIONS AND REQUIREMENTS FOR BUY-BACK OF SHARES AND SPECIFIED SECURITIES:

4. (i) The maximum limit of any buy-back shall be twenty-five per cent or less of the aggregate of paid-up capital and free reserves of the company [,based on both standalone and consolidated financial statements of the company] :

**Explanation:** In respect of the buy-back of equity shares in any financial year, the reference to twenty-five per cent in this regulation shall be construed with respect to its total paid-up equity capital in that financial year;

- [(ii) The ratio of the aggregate of secured and unsecured debts owed by the company to the paid-up capital and free reserves after buy-back shall,-
- (a) be less than or equal to 2:1, based on both standalone and consolidated financial statements of the company:  
  
Provided that if a higher ratio of the debt to capital and free reserves for the company has been notified under the Companies Act, 2013, the same shall prevail; or
  - (b) be less than or equal to 2:1, based on both standalone and consolidated financial statements of the company, after excluding financial statements of all subsidiaries that are non-banking financial companies and housing finance companies regulated by Reserve Bank of India or National Housing Bank, as the case may be:  
  
Provided that buy-back of securities shall be permitted only if all such excluded subsidiaries have their ratio of aggregate of secured and unsecured debts to the paid-up capital and free reserves of not more than 6:1 on standalone basis.]
- (iii) All shares or other specified securities for buy-back shall be fully paid- up.
- (iv) A company may buy-back its shares or other specified securities by any one of the following methods:
- (a) from the existing shareholders or other specified securities holders on a proportionate basis through the tender offer;
  - (b) from the open market through—
    - (i) book-building process,
    - (ii) stock exchange;
  - (c) from odd-lot holders:  
  
[Provided that the buyback from open market shall be less than fifteen per cent of the paid up capital and free reserves of the company, based on both standalone and consolidated financial statements of the company.]
- (v) A company shall not buy-back its shares or other specified securities so as to delist its shares or other specified securities from the stock exchange.
- (vi) A company shall not buy-back its shares or other specified securities from any person through negotiated deals, whether on or off the stock exchange or through spot transactions or through any private arrangement.
- (vii) A company shall not make any offer of buy-back within a period of one year reckoned from the date of expiry of buyback period of the preceding offer of buy-back, if any.

- (viii) A company shall not allow buy-back of its shares unless the consequent reduction of its share capital is effected.
- (ix) A company may undertake a buy-back of its own shares or other specified securities out of—
  - (a) its free reserves;
  - (b) the securities premium account; or
  - (c) the proceeds of the issue of any shares or other specified securities:

**Provided that** no such buy-back shall be made out of the proceeds of an earlier issue of the same kind of shares or same kind of other specified securities.

- (x) No company shall directly or indirectly purchase its own shares or other specified securities:
  - (a) through any subsidiary company including its own subsidiary companies;
  - (b) through any investment company or group of investment companies; or
  - (c) if a default is made by the company in the repayment of deposits accepted either before or after the commencement of the Companies Act, interest payment thereon, redemption of debentures or preference shares or payment of dividend to any shareholder, or repayment of any term loan or interest payable thereon to any financial institution or banking company:

**Provided that** the buy-back is not prohibited, if the default is remedied and a period of three years has lapsed after such default ceased to subsist.

#### GENERAL COMPLIANCE AND FILING REQUIREMENTS FOR BUY-BACK:

- 5. (i) The company shall not authorise any buy-back (whether by way of tender offer or from open market or odd lot) unless:
  - (a) The buy-back is authorised by the company's articles;
  - (b) A special resolution has been passed at a general meeting of the company authorizing the buy-back:

**Provided that** nothing contained in this clause shall apply to a case where the buy-back is, ten per cent or less of the total paid-up equity capital and free reserves of the company; [, based on both standalone and consolidated financial statements of the company] and such buy-back has been authorized by the board of directors by means of a resolution passed at its meeting.

- (ii) Every buy-back shall be completed within a period of one year from the date of passing of the special resolution at general meeting, or the resolution passed by the board of directors of the company, as the case maybe.

- (iii) The company shall, after expiry of the buy-back period, file with the Registrar of Companies and the Board, a return containing such particulars relating to the buy-back within thirty days of such expiry, in the format as specified in the Companies (Share Capital and Debentures) Rules, 2014.
- (iv) Where a special resolution is required for authorizing a buy-back, the explanatory statement to be annexed with the notice for the general meeting pursuant to section 102 of the Companies Act shall contain mandatory disclosures mentioned therein and the following disclosures:
  - (a) Disclosures under sub-section 3 of section 68 of the Companies Act —
    - i. a full and complete disclosure of all material facts;
    - ii. the necessity for the buy-back;
    - iii. the class of shares or securities intended to be purchased under the buy-back;
    - iv. the amount to be invested under the buy-back; and
    - v. the time-limit for completion of buy-back.
  - (b) Additional disclosures under these regulations as provided in **Schedule I**,  
**Provided that** where the buy-back is through tender offer from existing securities holders, the explanatory statement shall contain the following additional disclosures:
    - (i) the maximum price at which the buy-back of shares or other specified securities shall be made and whether the board of directors of the company is being authorised at the general meeting to determine subsequently the specific price at which the buy-back may be made at the appropriate time;
    - (ii) if the promoter intends to offer his shares or other specified securities, the quantum of shares or other specified securities proposed to be tendered and the details of their transactions and their holdings for the last six months prior to the passing of the special resolution for buy-back including information of number of shares or other specified securities acquired, the price and the date of acquisition.
- (v) A copy of the resolution passed at the general meeting under sub- section (2) of section 68 of the Companies Act shall be filed with the Board and the stock exchanges where the shares or other specified securities of the company are listed, within seven days from the date of passing of the resolution.

- (vi) Where the buy-back is from open market either through the stock exchange or through book building, the resolution of board of directors shall specify the maximum price at which the buy-back shall be made:

**Provided that** where there is a requirement for the Special Resolution as specified in clause (b) of sub-regulation 1 of regulation 5 of these Regulations, the special resolution shall also specify the maximum price at which the buy-back shall be made.

- (vii) A company, authorized by a resolution passed by the board of directors at its meeting to buy-back its shares or other specified securities under the proviso to clause (b) of sub-section (2) of section 68 of the Companies Act, shall file a copy of the resolution, with the Board and the stock exchanges, where the shares or other specified securities of the company are listed, within two working days of the date of the passing of the resolution.
- (viii) No insider shall deal in shares or other specified securities of the company on the basis of unpublished price sensitive information relating to buy-back of shares or other specified securities of the company.

## CHAPTER III



### BUY-BACK THROUGH TENDER OFFER

6. A company may buy-back its shares or other specified securities from its existing securities holders on a proportionate basis in accordance with the provisions of this Chapter.

**Provided that** fifteen per cent of the number of securities which the company proposes to buy-back or number of securities entitled as per their shareholding, whichever is higher, shall be reserved for small shareholders.

#### DISCLOSURES, FILING REQUIREMENTS AND TIMELINES FOR PUBLIC ANNOUNCEMENT:

7. (i) The company which has been authorised by a special resolution or a resolution passed by the board of directors, as the case may be, shall make a public announcement within two working days from the date of declaration of results of the postal ballot for special resolution/board of directors resolution in at least one English National Daily, one Hindi National Daily and one Regional language daily, all with wide circulation at the place where the Registered Office of the company is situated and the said public announcement shall contain all the material information as specified in **Schedule II**.
- (ii) A copy of the public announcement along with the soft copy, shall also be submitted to the Board, simultaneously, through a merchant banker.

**DISCLOSURES, FILING REQUIREMENTS AND TIMELINES FOR DRAFT LETTER OF OFFER**

8. (i) The company shall within five working days of the public announcement file the following with the Board:
- (a) a draft letter of offer, along with a soft copy, containing disclosures as specified in Schedule III through a merchant banker who is not associated with the company.
  - (b) a declaration of solvency in specified form and in a manner provided in sub-section(6) of section 68 of the Companies Act.
  - (c) fees specified in **Schedule V**.
- (ii) The Board may provide its comments on the draft letter of offer not later than seven working days of the receipt of the draft letter of offer:

**Provided that** in the event the Board has sought clarifications or additional information from the merchant banker to the buy-back offer, the period of issuance of comments shall be extended to the seventh working day from the date of receipt of satisfactory reply to the clarification or additional information sought:

**Provided further** that in the event the Board specifies any changes, the merchant banker to the buy-back offer and the company shall carryout such changes in the letter of offer before it is dispatched to the shareholders.

**Offer procedure**

9. (i) A company making a buy-back offer shall announce a record date in the public announcement for the purpose of determining the entitlement and the names of the security holders, who are eligible to participate in the proposed buy-back offer.
- (ii) The letter of offer along with the tender form shall be dispatched to the securities holders who are eligible to participate in the buy-back offer as per sub regulation (i) not later than five working days from the receipt of communication of comments from the Board.

**Explanation:** (a) Letter of Offer may also be dispatched through electronic mode in accordance with the provisions of the Companies Act.

- (b) On receipt of a request from any shareholder to receive a copy of the letter of offer in physical form, the same shall be provided.
  - (c) The aforesaid shall be disclosed in the letter of offer.
- (iii) Even if an eligible public shareholder does not receive the tender Offer/offer form, he may participate in the buy-back offer and tender shares in the manner as provided by the Board.

- (iv) An unregistered shareholder may also tender his shares for buy-back by submitting the duly executed transfer deed for transfer of shares in his name, along with the offer form and other relevant documents as required for transfer, if any.
- (v) The date of the opening of the offer shall be not later than five working days from the date of dispatch of the letter of offer.
- (vi) The offer for buy-back shall remain open for a period of ten working days.
- (vii) The company shall facilitate tendering of shares by the shareholders and settlement of the same, through the stock exchange mechanism in the manner as provided by the Board.
- (viii) The company shall accept shares or other specified securities from the securities holders on the basis of their entitlement as on record date.
- (ix) The shares proposed to be bought back shall be divided into two categories; (a) reserved category for small shareholders and (b) the general category for other shareholders, and the entitlement of a shareholder in each category shall be calculated accordingly.

**‘Explanation:** Holdings of multiple demat accounts would be clubbed together for identification of small shareholder if sequence of Permanent Account Number for all holders is matching. Similarly, in case of physical shareholders, if the sequence of names of joint holders is matching, holding under such folios should be clubbed together for identification of small shareholder.

- (x) After accepting the shares or other specified securities tendered on the basis of entitlement, shares or other specified securities left to be bought back, if any in one category shall first be accepted, in proportion to the shares or other specified securities tendered over and above their entitlement in the offer by securities holders in that category and thereafter from securities holders who have tendered over and above their entitlement in other category.
- (xi) Escrow account
  - (a) The company shall, as and by way of security for performance of its obligations under the regulations, on or before the opening of the offer, deposit in an escrow account such sum as specified in clause(b);
  - (b) The escrow amount shall be payable in the following manner:
    - (i) if the consideration payable does not exceed Rupees 100 crores; 25 per cent of the consideration payable;
    - (ii) if the consideration payable exceeds Rupees 100 crores; 25 per cent upto Rupees 100 crores and 10 per cent thereafter.

- (c) The escrow account referred to in this regulation shall consist of,
  - (i) cash deposited with a scheduled commercial bank, or
  - (ii) bank guarantee in favour of the merchant banker, or
  - (iii) deposit of acceptable securities with appropriate margin, with the merchant banker, or
  - (iv) a combination of (i), (ii) and (iii).

**Explanation:** The cash component of the escrow account may be maintained in an interest bearing account, provided that the merchant banker ensures that the funds are available at the time of making payment to shareholders.

- (a) Where the escrow account consists of deposit with a scheduled commercial bank, the company shall, while opening the account, empower the merchant banker to instruct the bank to make payment the amount lying to the credit of the escrow account, as provided in the regulations.
- (b) Where the escrow account consists of a bank guarantee, such bank guarantee shall be in favour of the merchant banker and shall be valid until thirty days after the expiry of buyback period.
- (c) The company shall, in case the escrow account consists of securities, empower the merchant banker to realise the value of such escrow account by sale or otherwise and if there is any deficit on realisation of the value of the securities, the merchant banker shall be liable to make good any such deficit.
- (d) In case the escrow account consists of bank guarantee or approved securities, these shall not be returned by the merchant banker till completion of all obligations under the regulations.
- (e) Where the escrow account consists of bank guarantee or deposit of approved securities, the company shall also deposit with the bank in cash a sum of at least one per cent of the total consideration payable, as and by way of security for fulfillment of the obligations under the regulations by the company.
- (f) On payment of consideration to all the securities holders who have accepted the offer and after completion of all formalities of buy-back, the amount, guarantee and securities in the escrow, if any, shall be released to the company.
- (g) The Board in the interest of the securities holders may in case of non fulfillment of obligations under the regulations by the company forfeit the escrow account either in full or in part.

- (xii) The amount forfeited under clause (j) may be distributed pro rata amongst the securities holders who accepted the offer and balance, if any, shall be utilised for investor protection.

#### **CLOSURE AND PAYMENT TO SECURITIES HOLDERS:**

10. (i) The company shall immediately after the date of closure of the offer, open a special account with a banker to an issue, registered with the Board and deposit therein, such sum as would, together with ninety per cent of the amount lying in the escrow account, make-up the entire sum due and payable as consideration for buy-back in terms of these regulations and for this purpose, may transfer the funds from the escrow account.
- (ii) The company shall complete the verification of offers received and make payment of consideration to those holders of securities whose offer has been accepted and return the remaining shares or other specified securities to the securities holders within seven working days of the closure of the offer.

#### **EXTINGUISHMENT OF CERTIFICATE AND OTHER CLOSURE COMPLIANCES:**

11. (i) The company shall extinguish and physically destroy the securities certificates so bought back in the presence of a registrar to issue or the Merchant Banker and the Statutory Auditor within fifteen days of the date of acceptance of the shares or other specified securities.

Provided that the company shall ensure that all the securities bought-back are extinguished within seven days of expiry of buy-back period.

**Explanation:** The aforesaid period of fifteen days shall in no case extend beyond seven days of expiry of buy-back period.

- (ii) The shares or other specified securities offered for buy-back if already dematerialised shall be extinguished and destroyed in the manner specified under the Securities and Exchange Board of India (Depositories and Participants) Regulations, 1996, and the bye-laws, the circulars and guidelines framed thereunder.
- (iii) The company shall, furnish a certificate to the Board certifying compliance as specified in sub-regulation (i) above, and duly certified and verified by:
- (a) the registrar and whenever there is no registrar, by the merchant banker;
  - (b) two directors of the company, one of whom shall be a managing director, where there is one; and
  - (c) the statutory auditor of the company,

This certificate shall be furnished to the Board within seven days of extinguishment and destruction of the certificates.

- (iv) The company shall furnish the particulars of the securities certificates extinguished and destroyed under sub-regulation (i), to the stock exchanges where the shares of the company are listed within seven days of extinguishment and destruction of the certificates.
- (v) Where a company buys back its shares or other specified securities under these regulations, it shall maintain a register of the shares or securities so bought, the consideration paid for the shares or securities bought back, the date of cancellation of shares or securities, the date of extinguishing and physically destroying the shares or securities and such other particulars as may be prescribed in sub-section (9) of section 68 of the Companies Act.

### ODD-LOT BUY-BACK

12. The provisions pertaining to buy-back through tender offer as specified in this Chapter shall be applicable mutatis mutandis to odd-lot shares or other specified securities.

## CHAPTER IV

### BUY-BACK FROM THE OPEN MARKET

13. A company intending to buy-back its shares or other specified securities from the open market shall do so in accordance with the provisions of this Chapter.
14. The buy-back of shares or other specified securities from the open market may be in any one of the following methods:
- (a) through stock exchange,
  - (b) Book-building process.
15. The company shall ensure that at least fifty per cent of the amount earmarked for buy-back, as specified in the resolution of the board of directors or the special resolution, as the case may be, is utilized for buying-back shares or other specified securities.

### BUY-BACK THROUGH STOCK EXCHANGE

16. (i) The buy-back shall be made only on stock exchanges having nationwide trading terminals;
- (ii) The buy-back of the shares or other specified securities through the stock exchange shall not be made from the promoters or persons in control of the company;
- (iii) The buy-back of shares or other specified securities shall be made only through the order matching mechanism except 'all or none' order matching system;

- (iv) Disclosures, filing requirements and timelines of public announcement:
- (a) The company shall appoint a merchant banker and make a public announcement as referred to in regulation 7 pertaining to tender offer;
  - (b) The public announcement shall be made within two working days from the date of passing the board of directors resolution or date of declaration of results of the postal ballot for special resolution, as relevant and shall contain disclosures as specified in **Schedule IV**;
  - (c) Simultaneously with the issue of such public announcement, the company shall file a copy of the public announcement with the Board along with the fees specified in **Schedule V**;
  - (d) The public announcement shall also contain disclosures regarding details of the brokers and stock exchanges through which the buy-back of shares or other specified securities would be made;

**Explanation:** In case of the buy-back from open market, no draft letter of offer/ letter of offer are required to be filed with the Board.

#### **OPENING OF THE OFFER ON STOCK EXCHANGE:**

17. (i) The identity of the company as a purchaser shall appear on the electronic screen when the order is placed;
- (ii) The buy-back offer shall open not later than seven working days from the date of public announcement and shall close within six months from the date of opening of the offer.

#### **SUBSEQUENT COMPLIANCES FOR OPEN MARKET BUY-BACK THROUGH STOCK EXCHANGE:**

18. (i) The company shall submit the information regarding the shares or other specified securities bought-back, to the stock exchange on a daily basis in such form as may be specified by the Board and the stock exchange shall upload the same on its official website immediately;
- (ii) The company shall upload the information regarding the shares or other specified securities bought-back on its website on a daily basis.
19. A company may buy-back its shares or other specified securities in physical form in the open market through stock exchange by following the procedure as provided here under:
- (i) A separate window shall be created by the stock exchange, which shall remain open during the period of buy-back, for buy-back of shares or other specified securities in physical form.
  - (ii) The company shall buy-back shares or other specified securities from eligible shareholders holding physical shares through the separate window specified in sub-

regulation (i), only after verification of the identity proof and address proof by the broker.

- (iii) The price at which the shares or other specified securities are bought back shall be the volume weighted average price of the shares or other specified securities bought-back, other than in the physical form, during the calendar week in which such shares or other specified securities were received by the broker:

**Provided that** the price of shares or other specified securities tendered during the first calendar week of the buy-back shall be the volume weighted average market price of the shares or other specified securities of the company during the preceding calendar week.

**Explanation:** In case no shares or other specified securities were bought back in the normal market during calendar week, the preceding week when the company has last bought back the shares or other specified securities may be considered.

#### **ESCROW ACCOUNT FOR OPEN MARKET BUY-BACK THROUGH STOCK EXCHANGE:**

20. (i) The company shall, before opening of the offer, create an escrow account towards security for performance of its obligations under these regulations, and deposit in escrow account 25 per cent of the amount earmarked for the buy-back as specified in the resolution of the board of directors or the special resolution, as the case maybe.
- (ii) The escrow account referred to in sub-regulation (i) may be in the form of,—
- (a) cash deposited with any scheduled commercial bank; or
  - (b) bank guarantee issued in favour of the merchant banker by any scheduled commercial bank.

**Explanation:** The cash component of the escrow account may be maintained in terms of Explanation to clause (c) of sub-regulation (xi) of regulation 9.

- (iii) For such part of the escrow account as is in the form of a cash deposit with a scheduled commercial bank, the company shall while opening the account, empower the merchant banker to instruct the bank to make payment of the amounts lying to the credit of the escrow account, to meet the obligations arising out of the buy-back.
- (iv) For such part of the escrow account as is in the form of a bank guarantee:
- (a) the same shall be in favour of the merchant banker and shall be kept valid for a period of thirty days after the expiry of buyback period of the offer or till the completion of all obligations under these regulations, whichever is later.
  - (b) the same shall not be returned by the merchant banker till completion of all obligations under there regulations.

- (v) Where part of the escrow account is in the form of a bank guarantee, the company shall deposit with a scheduled commercial bank, in cash, a sum of at least 2.5 per cent of the total amount earmarked for buy-back as specified in the resolution of the board of directors or the special resolution, as the case may be, as and by way of security for fulfillment of the obligations under the regulations by the company.
- (vi) The escrow amount may be released for making payment to the shareholders subject to at least 2.5 per cent of the amount earmarked for buy-back as specified in the resolution of the board of directors or the special resolution, as the case may be, remaining in the escrow account at all points of time.
- (vii) On fulfilling the obligation specified in regulation 15, the amount and the guarantee remaining in the escrow account, if any, shall be released to the company.
- (viii) In the event of non-compliance with regulation 15, the Board may direct the merchant banker to forfeit these escrow account, subject to a maximum of 2.5 per cent of the amount earmarked for buy-back as specified in the resolution of the board of directors or the special resolution, as the case may be, except in cases where,-
  - (a) volume weighted average market price (VWAMP) of the shares or other specified securities of the company during the buy-back period was higher than the buy-back price as certified by the Merchant banker based on the inputs provided by the Stock Exchanges.
  - (b) sell orders were inadequate despite the buy orders placed by the company as certified by the Merchant banker based on the inputs provided by the Stock Exchanges.
  - (c) such circumstances existed which were beyond the control of the company and in the opinion of the Board merit consideration.
- (ix) In the event of forfeiture for non-fulfillment of obligations specified in sub regulation (viii) of this regulation, the amount forfeited shall be deposited in the Investor Protection and Education Fund of Securities and Exchange Board of India.

#### **EXTINGUISHMENT OF CERTIFICATES FOR OPEN MARKET BUY-BACK THROUGH STOCK EXCHANGE:**

21. (i) Subject to the provisions of sub-regulation (ii) and (iii), the provisions of regulation 11 pertaining to the extinguishment of certificates for tender offers shall apply for extinguishment of certificates under this Chapter.
- (ii) The company shall complete the verification of acceptances within fifteen days of the payout.
- (iii) The company shall extinguish and physically destroy the securities certificates so bought back during the month in the presence of a Merchant Banker and the Statutory Auditor, on or before the fifteenth day of the succeeding month:

**Provided that** the company shall ensure that all the securities bought-back are extinguished within seven days of expiry of buy-back period.

### **BUY-BACK THROUGH BOOK BUILDING**

**22.** A company may buy-back its shares or other specified securities through the book-building process as provided here under:

- (i) The Special resolution or the board of directors resolution, as the case may be, shall be passed in accordance with regulation 5.
- (ii) Disclosures, filing requirements and timelines for public announcement:
  - (a) The company shall appoint a merchant banker and make a public announcement as referred to in regulation 7.
  - (b) The disclosures in the public announcement shall also be in accordance with Schedule II.
  - (c) The public announcement shall be made at least seven days prior to the commencement of buy-back.
- (iii) Subject to the provisions of clause (a) and clause (b) of this sub-regulation, the provisions of sub-regulation (xi) of regulation 9 shall apply:
  - (a) The deposit in the escrow account shall be made before the date of the public announcement.
  - (b) The amount to be deposited in the escrow account shall be determined with reference to the maximum price as specified in the public announcement.

*Explanation:* The cash component of the escrow account may be maintained in terms of the Explanation to clause (c) of sub-regulation (xi) of regulation 9.

- (iv) A copy of the public announcement shall be filed with the Board within two days of such announcement along with the fees as specified in **Schedule V**.
- (v) The public announcement shall also contain the detailed methodology of the book-building process, the manner of acceptance, the format of acceptance to be sent by the securities holders pursuant to the public announcement and the details of bidding centers.
- (vi) The book-building process shall be made through an electronically linked transparent facility.
- (vii) The number of bidding centers shall not be less than thirty and there shall be at least one electronically linked computer terminal at all the bidding centers.
- (viii) The offer for buy-back shall remain open to the securities holders for a period not less than fifteen days and not exceeding thirty days.

- (ix) The merchant banker and the company shall determine the buy-back price based on the acceptances received.
- (x) The final buy-back price, which shall be the highest price accepted shall be paid to all holders whose shares or other specified securities have been accepted for buy-back.
- (xi) The provisions of sub-regulation (ii) of regulation 10 pertaining to verification of acceptances and the provisions of regulation 10 pertaining to opening of special account and payment of consideration shall be applicable mutatis mutandis.

#### **EXTINGUISHMENT OF CERTIFICATES**

23. The provisions pertaining to extinguishment of certificates for tender offer shall be applicable mutatis mutandis to the buy-back through book building.

## **CHAPTER V**

### **GENERAL OBLIGATIONS**

#### **OBLIGATIONS OF THE COMPANY FOR ALL BUY-BACK PROCEDURE:**

24. (i) The company shall ensure that,—
- (a) the letter of offer, the public announcement of the offer or any other advertisement, circular, brochure, publicity material shall contain true, factual and material information and shall not contain any misleading information and must state that the directors of the company accept the responsibility for the information contained in such documents;
  - (b) the company shall not issue any shares or other specified securities including by way of bonus till the date of expiry of buyback period for the offer made under these regulations;
  - (c) the company shall pay the consideration only by way of cash;
  - (d) the company shall not withdraw the offer to buy-back after the draft letter of offer is filed with the Board or public announcement of the offer to buy-back is made;
  - (e) the promoter(s) or his/their associates shall not deal in the shares or other specified securities of the company in the stock exchange or off-market, including inter- se transfer of shares among the promoters during the period from the date of passing the resolution of the board of directors or the special resolution, as the case may be, till the closing of the offer.
  - (f) the company shall not raise further capital for a period of one year from the expiry of buyback period, except in discharge of its subsisting obligations.

- (ii) No public announcement of buy-back shall be made during the pendency of any scheme of amalgamation or compromise or arrangement pursuant to the provisions of the Companies Act.
- (iii) The company shall nominate a compliance officer and investors service centre for compliance with the buy-back regulations and to redress the grievances of the investors.
- (iv) The particulars of the security certificates extinguished and destroyed shall be furnished by the company to the stock exchanges where the shares or other specified securities of the company are listed within seven days of extinguishment and destruction of the certificates.
- (v) The company shall not buy-back the locked-in shares or other specified securities and non-transferable shares or other specified securities till the pendency of the lock-in or till the shares or other specified securities become transferable.
- (vi) The company shall within two days of expiry of buy-back period issue a public advertisement in a national daily, inter alia disclosing:
  - (a) number of shares or other specified securities bought;
  - (b) price at which the shares or other specified securities bought;
  - (c) total amount invested in the buy-back;
  - (d) details of the securities holders from whom shares or other specified securities exceeding one per cent of total shares or other specified securities were bought back; and
  - (e) the consequent changes in the capital structure and the shareholding pattern after and before the buy-back.
- (vii) The company in addition to these regulations shall comply with the provisions of buy-back as contained in the Companies Act and other applicable laws.

#### **OBLIGATIONS OF THE MERCHANT BANKER:**

**25.** The merchant banker shall ensure that—

- (i) the company is able to implement the offer;
- (ii) the provision relating to escrow account has been complied with;
- (iii) firm arrangements for monies for payment to fulfill the obligations under the offer are in place;
- (iv) the public announcement of buy-back is made in terms of the regulations;
- (v) the letter of offer has been filed in terms of the regulations;

- (vi) a due diligence certificate along with the draft letter of offer has been furnished to the Board;
- (vii) the contents of the public announcement of offer as well as the letter of offer are true, fair and adequate and quoting the source wherever necessary;
- (viii) due compliance of sections 68, 69 and 70 of the Companies Act and any other laws or rules as may be applicable in this regard has been made;
- (ix) the bank with whom the escrow or special amount has been deposited releases the balance amount to the company only upon fulfillment of all obligations by the company under the regulations;
- (x) a final report is submitted to the Board in the form specified within fifteen days from the date of expiry of buyback period.

## CHAPTER V-A



### POWER TO RELAX STRICT ENFORCEMENT OF THE REGULATIONS

#### Exemption from enforcement of the regulations in special cases.

- 25A.** (1) The Board may, exempt any person or class of persons from the operation of all or any of the provisions of these regulations for a period as may be specified but not exceeding twelve months, for furthering innovation in technological aspects relating to testing new products, processes, services, business models, etc. in live environment of regulatory sandbox in the securities markets.
- (2) Any exemption granted by the Board under sub-regulation (1) shall be subject to the applicant satisfying such conditions as may be specified by the Board including conditions to be complied with on a continuous basis.

Explanation. — For the purposes of these regulations, "regulatory sandbox" means a live testing environment where new products, processes, services, business models, etc. may be deployed on a limited set of eligible customers for a specified period of time, for furthering innovation in the securities market, subject to such conditions as may be specified by the Board.]

## CHAPTER VI



### MISCELLANEOUS

#### POWERS OF THE BOARD TO ISSUE DIRECTIONS

- 26.** (i) The Board may, without prejudice to its right to initiate any other enforcement action, including prosecution under section 24 of the Act, give such directions in the interest of investors in securities and the securities market, as it deems fit including:

- (a) prohibiting the person concerned from cancelling any of the securities bought back in violation of the provisions of these regulations or the Companies Act;
  - (b) directing the person concerned to sell or divest the shares or other specified securities acquired in violation of the provisions of these regulations or any other law or regulations;
  - (c) restraining the company from making a further offer for buy-back;
- (ii) A copy of such direction issued by the Board shall also be forwarded to Registrar of Companies.

#### **Power of the Board to remove difficulties**

27. In order to remove any difficulties in the interpretation or application of the provisions of these regulations, the Board may issue clarifications or guidelines from time to time.

#### **POWER TO RELAX STRICT ENFORCEMENT OF THE REGULATIONS.**

28. (i) The Board may, in the interest of investors and the securities market, relax the strict enforcement of any requirement of these regulations except the provisions incorporated from the Companies Act, if the Board is satisfied that:
- (i) the requirement is procedural in nature or
  - (ii) the requirement may cause undue hardship to investors;
- (ii) For seeking relaxation under sub-regulation (i), the company shall file an application with the Board, supported by a duly sworn affidavit; giving details and the grounds on which such relaxation has been sought.
- (iii) The company shall along with the application referred to under sub-regulation (ii), pay a non-refundable fee of rupees fifty thousand, by way of direct credit in the bank account through NEFT/RTGS/IMPS or any other mode allowed by RBI or by way of a banker's cheque or demand draft payable in Mumbai in favour of the Board.
- (iv) The Board may after affording reasonable opportunity of being heard to the applicant and after considering all the relevant facts and circumstances, pass a reasoned order either granting or rejecting the relaxation sought as expeditiously as possible.

#### **Repeal and savings**

29. (i) The Securities and Exchange Board of India (Buy-Back of Securities) Regulations, 1998, shall stand repealed from the date on which these regulations come into force.
- (ii) Notwithstanding such repeal,—
- (a) anything done or any action taken or purported to have been done or taken including comments on any letter of offer, exemption granted by the Board, fees collected, any adjudication, enquiry or investigation commenced or show-cause

notice issued under the repealed regulations, prior to such repeal, shall be deemed to have been done or taken under the corresponding provisions of these regulations;

- (b) the previous operation of the repealed regulations or anything duly done or suffered there under, any right, privilege, obligation or liability acquired, accrued or incurred under the repealed regulations, any penalty, forfeiture or punishment incurred in respect of any violation committed against the repealed regulations, or any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment as aforesaid, shall remain unaffected as if the repealed regulations has never been repealed;
  - (c) any buy-back offer for which a public announcement has been made under the repealed regulations shall be required to be continued and completed under the repealed regulations.
- (iii) After the repeal of Securities and Exchange Board of India (Buy-Back of Securities) Regulations, 1998, any reference thereto in any other regulations made, guidelines or circulars issued thereunder by the Board shall be deemed to be a reference made to the corresponding provisions of these regulations.





# SEBI (MUTUAL FUNDS) REGULATIONS, 1996



## CHAPTER I



### PRELIMINARY

#### Short title, application and commencement

1. (1) These regulations may be called the Securities and Exchange Board of India (Mutual Funds) Regulations, 1996.
- (2) They shall come into force on the date of their publication in the Official Gazette.

#### Definitions

2. (1) In these regulations, unless the context otherwise requires:—
  - (a) “Act” means the Securities and Exchange Board of India Act, 1992 (15 of 1992);
  - (b) “advertisement” shall include all forms of communication issued by or on behalf of the asset management company/mutual fund that may influence investment decisions of any investor/prospective investors;
  - (c) “associate” includes a person,—
    - (i) who directly or indirectly, by himself, or in combination with relatives, exercises control over the asset management company or the trustee or the sponsor, as the case may be, or
    - (ii) in respect of whom the asset management company or the trustee or the sponsor, directly or indirectly, by itself, or in combination with other persons exercises a control, or

- (iii) whose director except an independent director, officer or employee is a director, officer or employee of the asset management company; “asset management company” means a company formed and registered under the companies
- (d) “asset management company” means a company formed and registered under the Companies Act 1956 (1 of 1956) or Companies Act, 2013 (18 of 2013) and approved by the Board under sub regulation (2) of regulation 21;
- (e) “broker” means a stock broker as defined in Securities and Exchange Board of India [(Stock Brokers) Regulations, 1992]
- (ea) “capital protection oriented scheme” means a mutual fund scheme which is designated as such and, which endeavours to protect the capital invested therein through suitable orientation of its portfolio structure;
- (f) “close-ended scheme” means any scheme of a mutual fund in which the period of maturity of the scheme is specified;
- (g) “control” means,—
  - (i) in the case of a company any person ,either individually or together with persons acting in concert, who directly or indirectly own, control or hold shares carrying not less than 10% of the voting rights of such company; or
  - (ii) as between two companies, if the same person ,either individually or together with persons acting in concert, directly or indirectly, own, control or hold shares carrying not less than 10% of the voting rights of each of the two companies; or
  - (iii) majority of the directors of any company who are in a position to exercise control over the asset management company;
- (h) “custodian” means a person who has been granted a certificate of registration to carry on the business of custodian of securities under the Securities and Exchange Board of India (Custodian of Securities) Regulations, 1996;
- (i) “depository” means a body corporate as defined in the Depositories Act, 1996 (22 of 1996);
- (j) “economic offence” means an offence to which the Economic Offences (Inapplicability of Limitation ) Act, 1974 (12 of 1974), applies for the time being;
- (ja) equity related instruments" include convertible debentures, convertible preference shares, warrants carrying the right to obtain equity shares, equity derivatives and such other instrument as may be specified by the Board from time to time;
- (jb) “exchange traded fund” means a mutual fund scheme that invests in securities in the same proportion as an index of securities and the units of exchange traded fund are mandatorily listed and traded on exchange platform;

- (k) omitted
- (l) “form” means any of the forms specified as such in the First Schedule;
- (m) “fraud” means a fraud as defined in clause (c) of sub-regulation (1) of regulation 2 of the Securities and Exchange Board of India (Prohibition of Fraudulent and Unfair Trade Practices Relating to Securities Market) Regulations, 2003
- (ma) “fund of funds scheme” means a mutual fund scheme that invests primarily in other schemes of the same mutual fund or other mutual funds;
- (mb) “gold exchange traded fund scheme” shall mean a mutual fund scheme that invests primarily in gold or gold related instruments;
- (mc) “gold related instrument” shall mean such instrument having gold as underlying, as may be specified by the Board from time to time;
- (md) “goods” means the goods notified by the Central Government under clause (bc) of section 2 of the Securities Contracts (Regulation) Act, 1956 and forming the underlying of any commodity derivative;
- (mm) “group” means a group as defined in clause (b) of the Explanation to Section 5 of the Competition Act, 2002 (12 of 2003).
- (mn) “index fund scheme” means a mutual fund scheme that invests in securities in the same proportion as an index of securities;
- (mo) “InvIT” or “Infrastructure Investment Trust” shall have the meaning assigned in clause (za) of sub-regulation (1) of regulation 2 of the Securities and Exchange Board of India (Infrastructure Investment Trusts) Regulations, 2014;
- (n) “inspecting officer” means any person appointed as such by the Board under Chapter VIII;
- (o) “money market instruments” includes commercial papers, commercial bills, treasury bills, Government securities having an unexpired maturity up to one year, call or notice money, certificate of deposit, usance bills, and any other like instruments as specified by the Reserve Bank of India from time to time;
- (p) “money market mutual fund” means a scheme of a mutual fund which has been set up with the objective of investing exclusively in money market instruments;
- (q) “mutual fund” means a fund established in the form of a trust to raise monies through the sale of units to the public or a section of the public under one or more schemes for investing in securities, money market instruments, gold or gold related instruments, real estate assets and such other assets and instruments as may be specified by the Board from time to time:

**Provided that** infrastructure debt fund schemes may raise monies through private placement of units, subject to conditions specified in these regulations;

Provided further that mutual fund schemes investing in exchange traded commodity derivatives may hold the underlying goods in case of physical settlement of such contracts.

- (qa) “networth” means the aggregate of the paid up capital and free reserves after deducting therefrom, miscellaneous expenditure to the extent not written off or adjusted or deferred revenue expenditure, intangible assets and accumulated losses;
- (r) “offer document” means any document by which a mutual fund invites public for subscription of units of a scheme;
- (s) “open-ended scheme” means a scheme of a mutual fund which offers units for sale without specifying any duration for redemption;
- (sa) “private placement” means any offer of units of a mutual fund scheme or invitation to subscribe such units to a select group of persons, by a mutual fund (other than by way of public offer) through issue of a placement memorandum and which is not being calculated to result, directly or indirectly in the units becoming available for subscription or purchase by persons other than those receiving the offer or invitation;
- (sb) “REIT” or “Real Estate Investment Trust” shall have the meaning assigned in clause (zm) of sub-regulation 1 of regulation 2 of the Securities and Exchange Board of India (Real Estate Investment Trusts) Regulations, 2014;
- (sc) “real estate mutual fund scheme” means a mutual fund scheme that invests directly or indirectly in real estate assets or other permissible assets in accordance with these regulations;
- (t) “relative” means a person as defined in section 2(77) of the Companies Act, 2013 (18 of 2013)
- (u) “scheme” means a scheme of a mutual fund launched under Chapter V;
- (v) “schedule” means any of the schedules annexed to these regulations;
- (w) “securities laws” means the Act, the Securities Contracts (Regulation) Act, 1956 (42 of 1956) and the Depositories Act, 1996 (22 of 1996), the provision of any other law to the extent it is administered by the Board and the relevant rules and regulations made thereunder;
- (x) “sponsor” means any person who, acting individually or in concert with another body corporate, establishes a mutual fund;
- (y) “trustees” mean the Board of Trustees or the Trustee Company who hold the property of the Mutual Fund in trust for the benefit of the unit holders;

**Explanation:** In the event the trusteeship of the mutual fund is with a trustee company, wherever the context requires applicability of provisions for individual trustees, the term “trustees” under these regulations shall be deemed to mean the directors of board of the trustee company;

- (z) “unit” means the interest of the unit holders in a scheme, which consists of each unit representing one undivided share in the assets of a scheme;
- (zi) “unit holder” means a person holding unit in a scheme of a mutual fund.
- (2) The words and expressions used and not defined in these regulations but defined in the Act, the Securities Contracts (Regulation) Act, 1956 (42 of 1956), the Companies Act, 2013 (18 of 2013), the Depositories Act, 1996 (22 of 1996), or any rules or regulations made thereunder shall have the same meanings respectively assigned to them in those Acts, rules or regulations made thereunder or any statutory modification or re-enactment thereto, as the case may be.

## CHAPTER II



### REGISTRATION OF MUTUAL FUND

#### Application for registration

3. An application for registration of a mutual fund shall be made to the Board in Form A by the sponsor.

#### Application fee to accompany the application

4. Every application for registration under regulation 3 shall be accompanied by nonrefundable application fee as specified in the Second Schedule. Application to conform to the requirements

#### Application to conform to the requirements

5. An application, which is not complete in all respects shall be liable to be rejected:  
**Provided that**, before rejecting any such application, the applicant shall be given an opportunity to complete such formalities within such time as may be specified by the Board.

#### Furnishing information

6. The Board may require the sponsor to furnish such further information or clarification as may be required by it.

#### Eligibility criteria

7. For the purpose of grant of a certificate of registration, the applicant has to fulfill the following, namely—

- (a) the sponsor should have a sound track record and general reputation of fairness and integrity in all his business transactions.

Explanation: For the purposes of this clause “sound track record” shall mean the sponsor should—

- I. be carrying on business in financial services for a period of not less than five years; and
- II. ensure that the networth is positive in all the immediately preceding five years; and
- III. ensure that the networth is more than the proposed capital contribution of the sponsor in the asset management company and ensure that in case of change in control of the existing asset management company due to acquisition of shares, the networth of the sponsor is more than the aggregate par value or market value of the shares so acquired, whichever is higher; and
- IV. the sponsor has profits after providing for depreciation, interest and tax in three out of the immediately preceding five years, including the fifth year;

Provided that the applicant shall have a networth not less than rupees one hundred crore in case the aforementioned requirement is not fulfilled.

- (aa) the applicant is a fit and proper person;
- (b) in the case of an existing mutual fund, such fund is in the form of a trust and the trust deed has been approved by the Board;
- (c) the sponsor has contributed or contributes at least 40% to the net worth of the asset management company:

**Provided that** any person who holds 40% or more of the net worth of an asset management company shall be deemed to be a sponsor and will be required to fulfill the eligibility criteria specified in these regulations;

- (d) the sponsor or any of its directors or the principal officer to be employed by the mutual fund should not have been guilty of fraud or has not been convicted of an offence involving moral turpitude or has not been found guilty of any economic offence;
- (e) appointment of trustees to act as trustees for the mutual fund in accordance with the provisions of the regulations;
- (f) appointment of asset management company to manage the mutual fund and operate the scheme of such funds in accordance with the provisions of these regulations;
- (g) appointment of custodian in order to keep custody of the securities or goods or gold and gold related instrument or other assets of the mutual fund held in terms of these regulations, and provide such other custodial services as may be authorised by the trustees.

**Criteria for fit and proper person**

**7A.** For the purpose of determining whether an applicant or the mutual fund is a fit and proper person the Board may take into account the criteria specified in Schedule II of the Securities and Exchange Board of India (Intermediaries) Regulations, 2008.

**Norms for Shareholding and Governance in Mutual Funds**

- 7B.** (1) No sponsor of a mutual fund, its associate or group company including the asset management company of the fund, through the schemes of the mutual fund or otherwise, individually or collectively, directly or indirectly, have –
- (a) 10% or more of the share-holding or voting rights in the asset management company or the trustee company of any other mutual fund; or
  - (b) representation on the board of the asset management company or the trustee company of any other mutual fund.
- (2) Any shareholder holding 10% or more of the share-holding or voting rights in the asset management company or the trustee company of a mutual fund, shall not have, directly or indirectly, -
- (a) 10% or more of the share-holding or voting rights in the asset management company or the trustee company of any other mutual fund; or
  - (b) representation on the board of the asset management company or the trustee company of any other mutual fund.
- (3) Any person not in conformity with the sub-regulations (1) and (2) of this regulation, as on the date of the coming into force of this regulation shall comply with sub-regulations (1) and (2) within a period of one year from the date of the coming into force of this regulation:

**Provided that** in the event of a merger, acquisition, scheme of arrangement or any other arrangement involving the sponsors of the mutual funds, shareholders of the asset management companies or trustee companies, their associates or group companies which results in the incidental acquisition of shares, voting rights or representation on the board of the asset management companies or trustee companies, this regulation shall be complied with within a period of one year of coming into force of such an arrangement.

**Consideration of application**

**8.** The Board, may on receipt of all information decide the application.

**Grant of Certificate of Registration**

**9.** The Board may register the mutual fund and grant a certificate in Form B on the applicant paying the registration fee as specified in Second Schedule.

**Terms and conditions of registration**

10. The registration granted to a mutual fund under regulation 9, shall be subject to the following terms and conditions—
- (a) the trustees, the sponsor, the asset management company and the custodian shall comply with the provisions of these regulations;
  - (b) the mutual fund shall forthwith inform the Board, if any information or particulars previously submitted to the Board was misleading or false in any material respect;
  - (c) the mutual fund shall forthwith inform the Board, of any material change in the information or particulars previously furnished, which have a bearing on the registration granted by it;
  - (d) payment of fees as specified in the regulations and the Second Schedule.

**Rejection of application**

11. Where the sponsor does not satisfy the eligibility criteria mentioned in regulation 7, the Board may reject the application and inform the applicant of the same.

**Payment of annual service fee**

12. A mutual fund shall pay before the 15th April each year a service fee as specified in the Second Schedule for every financial year from the year following the year of registration:

**Provided that** the Board may, on being satisfied with the reasons for the delay permit the mutual fund to pay the service fee at any time before the expiry of two months from the commencement of the financial year to which such fee relates.

**Failure to pay annual service fee**

13. The Board may not permit a mutual fund who has not paid service fee to launch any scheme.

## CHAPTER III



### CONSTITUTION AND MANAGEMENT OF MUTUAL FUND AND OPERATION OF TRUSTEES, ETC

**Trust deed to be registered under the Registration Act**

14. A mutual fund shall be constituted in the form of a trust and the instrument of trust shall be in the form of a deed, duly registered under the provisions of the Indian Registration Act, 1908 (16 of 1908), executed by the sponsor in favour of the trustees named in such an instrument.

**Contents of trust deed**

15. (1) The trust deed shall contain such clauses as are mentioned in the Third Schedule and such other clauses which are necessary for safeguarding the interests of the unitholders.
- (2) No trust deed shall contain a clause which has the effect of—
- (i) limiting or extinguishing the obligations and liabilities of the trust in relation to any mutual fund or the unitholders; or
  - (ii) Indemnifying the trustees or the asset management company for loss or damage caused to the unitholders by their acts of negligence or acts of commission or omission.

**Disqualification from being appointed as trustees**

16. (1) A mutual fund shall appoint trustees in accordance with these regulations.
- (2) No person shall be eligible to be appointed as a trustee unless—
- (a) he is a person of ability, integrity and standing; and
  - (b) has not been found guilty of moral turpitude; and
  - (c) has not been convicted of any economic offence or violation of any securities laws; and
  - (d) has furnished particulars as specified in Form C.
- (3) No asset management company and no director (including independent director), officer or employee of an asset management company shall be eligible to be appointed as a trustee of any mutual fund.
- (4) No person who is appointed as a trustee of a mutual fund shall be eligible to be appointed as a trustee of any other mutual fund.
- (5) Two-thirds of the trustees shall be independent persons and shall not be associated with the sponsors or be associated with them in any manner whatsoever.
- (6) In case a company is appointed as a trustee then its directors can act as trustees of any other trust provided that the object of the trust is not in conflict with the object of the mutual fund.

**Approval of the Board for appointment of trustee**

17. (1) No trustee shall initially or any time thereafter be appointed without prior approval of the Board.
- (2) The existing trustees of any mutual fund may form a trustee company to act as a trustee with the prior approval of the Board.

**Rights and obligations of the trustees**

18. (1) The trustees and the asset management company shall with the prior approval of the Board enter into an investment management agreement.
- (2) The investment management agreement shall contain such clauses as are mentioned in the Fourth Schedule and such other clauses as are necessary for the purpose of making investments.
- (3) The trustees shall have a right to obtain from the asset management company such information as is considered necessary by the trustees.
- (4) The trustees shall ensure before the launch of any scheme that the asset management company, has,—
- (a) systems in place for its back office, dealing room and accounting;
  - (b) appointed all key personnel including fund manager(s) for the scheme(s) and submitted their bio-data which shall contain the educational qualifications, past experience in the securities market with the trustees, within 15 days of their appointment;
  - (c) appointed auditors to audit its accounts;
  - (d) appointed a compliance officer who shall be responsible for monitoring the compliance of the Act, rules and regulations, notifications, guidelines, instructions, etc., issued by the Board or the Central Government and for redressal of investors grievances;
  - (e) appointed registrars and laid down parameters for their supervision;
  - (f) prepared a compliance manual and designed internal control mechanisms including internal audit systems;
  - (g) specified norms for empanelment of brokers and marketing agents;
  - (h) obtained, wherever required under these regulations, prior in principle approval from the recognised stock exchange(s) where units are proposed to be listed.
- (4A) The compliance officer appointed under clause (d) of sub-regulation (4) shall immediately and independently report to the Board any non-compliance observed by him.
- (5) The trustees shall ensure that an asset management company has been diligent in empanelling the brokers, in monitoring securities transactions with brokers and avoiding undue concentration of business with any broker.

- (6) The trustees shall ensure that the asset management company has not given any undue or unfair advantage to any associates or dealt with any of the associates of the asset management company in any manner detrimental to interest of the unitholders.
- (7) The trustees shall ensure that the transactions entered into by the asset management company are in accordance with these regulations and the scheme.
- (8) The trustees shall ensure that the asset management company has been managing the mutual fund schemes independently of other activities and have taken adequate steps to ensure that the interest of investors of one scheme are not being compromised with those of any other scheme or of other activities of the asset management company.
- (9) The trustees shall ensure that all the activities of the asset management company are in accordance with the provisions of these regulations.
- (10) Where the trustees have reason to believe that the conduct of business of the mutual fund is not in accordance with these regulations and the scheme they shall forthwith take such remedial steps as are necessary by them and shall immediately inform the Board of the violation and the action taken by them.
- (11) Each trustee shall file the details of his transactions of dealing in securities with the Mutual Fund on a quarterly basis, within the time and manner as may be specified by the Board from time to time.
- (12) The trustees shall be accountable for, and be the custodian of, the funds and property of the respective schemes and shall hold the same in trust for the benefit of the unitholders in accordance with these regulations and the provisions of trust deed.
- (13) The trustees shall take steps to ensure that the transactions of the mutual fund are in accordance with the provisions of the trust deed.
- (14) The trustees shall be responsible for the calculation of any income due to be paid to the mutual fund and also of any income received in the mutual fund for the holders of the units of any scheme in accordance with these regulations and the trust deed.
- (15) The trustees shall obtain the consent of the unitholders—
  - (a) whenever required to do so by the Board in the interest of the unitholders; or
  - (b) whenever required to do so on the requisition made by three-fourths of the unitholders of any scheme; or
  - (c) when the majority of the trustees decide to wind up or prematurely redeem the units.
  - (d) omitted

- (15A) The trustees shall ensure that no change in the fundamental attributes of any scheme or the trust or fees and expenses payable or any other change which would modify the scheme and affects the interest of unitholders, shall be carried out unless,—
- (i) a written communication about the proposed change is sent to each unitholder and an advertisement is given in one English daily newspaper having nationwide circulation as well as in a newspaper published in the language of region where the Head Office of the mutual fund is situated; and
  - (ii) the unitholders are given an option to exit at the prevailing Net Asset Value without any exit load.
- (16) The trustees shall call for the details of transactions in securities by the key personnel of the asset management company in his own name or on behalf of the asset management company and shall report to the Board, as and when required.
- (17) The trustees shall quarterly review all transactions carried out between the mutual funds, asset management company and its associates.
- (18) The trustees shall quarterly review the net worth of the asset management company and in case of any shortfall, ensure that the asset management company make up for the shortfall as per clause (f) of sub-regulation (1) of regulation 21.
- (19) The trustees shall periodically review all service contracts such as custody arrangements, transfer agency of the securities and satisfy itself that such contracts are executed in the interest of the unitholder.
- (20) The trustees shall ensure that there is no conflict of interest between the manner of deployment of its net worth by the asset management company and the interest of the unit-holders.
- (21) The trustees shall periodically review the investor complaints received and the redressal of the same by the asset management company.
- (22) The trustees shall abide by the Code of Conduct as specified in PART-A of the Fifth Schedule.
- (23) The trustees shall furnish to the Board on a half-yearly basis,—
- (a) a report on the activities of the mutual fund;
  - (b) a certificate stating that the trustees have satisfied themselves that there have been no instances of self-dealing or front running by any of the trustees, directors and key personnel of the asset management company;
  - (c) a certificate to the effect that the asset management company has been managing the schemes independently of any other activities and in case any activities of the nature referred to in clause (b) of regulation 24 have been

undertaken by the asset management company and has taken adequate steps to ensure that the interests of the unit holders are protected.

- (24) The independent trustees referred to in sub-regulation (5) of regulation 16 shall give their comments on the report received from the asset management company regarding the investments by the mutual fund in the securities of group companies of the sponsor.
- (25) Trustees shall exercise due diligence as under:
- A. General Due Diligence:**
- (i) The Trustees shall be discerning in the appointment of the directors on the Board of the asset management company.
  - (ii) Trustees shall review the desirability or continuance of the asset management company if substantial irregularities are observed in any of the schemes and shall not allow the asset management company to float new schemes.
  - (iii) The Trustee shall ensure that the trust property is properly protected, held and administered by proper persons and by a proper number of such persons.
  - (iv) The Trustee shall ensure that all service providers are holding appropriate registrations from the Board or concerned regulatory authority.
  - (v) The Trustees shall arrange for test checks of service contracts.
  - (vi) Trustees shall immediately report to the Board of any special developments in the mutual fund.
- B. Specific due diligence: The Trustees shall:**
- (i) obtain internal audit reports at regular intervals from independent auditors appointed by the Trustees,
  - (ii) obtain compliance certificates at regular intervals from the asset management company,
  - (iii) hold meeting of trustees more frequently,
  - (iv) consider the reports of the independent auditor and compliance reports of asset management company at the meetings of trustees for appropriate action,
  - (v) maintain records of the decisions of the Trustees at their meetings and of the minutes of the meetings,

- (vi) prescribe and adhere to a code of ethics by the Trustees, asset management company and its personnel,
  - (vii) communicate in writing to the asset management company of the deficiencies and checking on the rectification of deficiencies.
- (26) Notwithstanding anything contained in sub-regulations (1) to (25), the trustees shall not be held liable for acts done in good faith if they have exercised adequate due diligence honestly.
- (27) The independent directors of the trustees or asset management company shall pay specific attention to the following, as may be applicable, namely:—
- (i) the Investment Management Agreement and the compensation paid under the agreement,
  - (ii) service contracts with associates —whether the asset management company has charged higher fees than outside contractors for the same services,
  - (iii) selections of the asset management company's independent directors,
  - (iv) securities transactions involving associates to the extent such transactions are permitted,
  - (v) selecting and nominating individuals to fill independent directors vacancies,
  - (vi) code of ethics must be designed to prevent fraudulent, deceptive or manipulative practices by insiders in connection with personal securities transactions,
  - (vii) the reasonableness of fees paid to sponsors, asset management company and any others for services provided,
  - (viii) principal underwriting contracts and their renewals,
  - (ix) any service contract with the associates of the asset management company.

## CHAPTER IV



### CONSTITUTION AND MANAGEMENT OF ASSET MANAGEMENT COMPANY AND CUSTODIAN

#### Application by an asset management company

19. (1) The application for the approval of the asset management company shall be made in Form D.

- (2) The provisions of regulations 5, 6 and 8 shall, so far as may be, apply to the application made under sub-regulation (1) as they apply to the application for registration of a mutual fund.

#### **Appointment of an asset management company**

20. (1) The sponsor or, if so authorised by the trust deed, the trustee, shall appoint an asset management company, which has been approved by the Board under sub-regulation (2) of regulation 21.
- (2) The appointment of an asset management company can be terminated by majority of the trustees or by seventy-five per cent of the unitholders of the scheme.
- (3) Any change in the appointment of the asset management company shall be subject to prior approval of the Board and the unitholders.

#### **Eligibility criteria for appointment of asset management company**

21. (1) For grant of approval of the asset management company the applicant has to fulfill the following :—
  - (a) in case the asset management company is an existing asset management company it has a sound track record, general reputation and fairness in transactions.

**Explanation:** For the purpose of this clause sound track record shall mean the networth and the profitability of the asset management company;
  - (aa) the asset management company is a fit and proper person;
  - (b) the directors of the asset management company are persons having adequate professional experience in finance and financial services related field and not found guilty of moral turpitude or convicted of any economic offence or violation of any securities laws;
  - (c) the key personnel of the asset management company have not been found guilty of moral turpitude or convicted of economic offence or violation of securities laws or worked for any asset management company or mutual fund or any intermediary during the period when its registration has been suspended or cancelled at any time by the Board;
  - (d) the board of directors of such asset management company has at least fifty per cent directors, who are not associate of, or associated in any manner with, the sponsor or any of its subsidiaries or the trustees;
  - (e) the Chairman of the asset management company is not a trustee of any mutual fund;

- (f) the asset management company has a networth of not less than rupees fifty crore:

**Provided** that where the sponsor does not fulfil the requirements provided in part (iv) of the Explanation to clause (a) of regulation 7 at the time of making application, the asset management company shall be required to have a networth of not less than rupees one hundred crore and the asset management company shall maintain such networth till it has profits for five consecutive years:

**Provided further** that an asset management company of a mutual fund eligible to launch only infrastructure debt fund schemes, shall have a networth of not less than rupees ten crore.

Explanation: Loans and advances given by asset management company to either sponsor, associates or group company of sponsor and associates or group company of asset management company shall be excluded while computing the networth of the asset management company.

- (g) the networth of the asset management company as required under clause (f) of this regulation shall be maintained on a continuous basis.
- (2) The Board may, after considering an application with reference to the matters specified in sub-regulation (1), grant approval to the asset management company.

#### **Terms and conditions to be complied with**

22. The approval granted under sub-regulation (2) of regulation 21 shall be subject to the following conditions, namely:—

- (a) any director of the asset management company shall not hold the office of the director in another asset management company unless such person is an independent director referred to in clause (d) of sub-regulation (1) of regulation 21 and approval of the Board of asset management company of which such person is a director, has been obtained;
- (b) the asset management company shall forthwith inform the Board of any material change in the information or particulars previously furnished, which have a bearing on the approval granted by it;
- (c) no appointment of a director of an asset management company shall be made without prior approval of the trustees;
- (d) the asset management company undertakes to comply with these regulations;
- (e) no change in the control of the asset management company shall be made unless,—
- (i) prior approval of the trustees and the Board is obtained;

- (ii) a written communication about the proposed change is sent to each unitholder and an advertisement is given in one English daily newspaper having nationwide circulation and in a newspaper published in the language of the region where the Head Office of the mutual fund is situated; and
  - (iii) the unitholders are given an option to exit on the prevailing Net Asset Value without any exit load;
- (f) the asset management company shall furnish such information and documents to the trustees as and when required by the trustees.

**Procedure where approval is not granted**

23. Where an application made under regulation 19 for grant of approval does not satisfy the eligibility criteria laid down in regulation 21, the Board may reject the application.

**Restrictions on business activities of the asset management company**

24. The asset management company shall, -

- (a) not act as a trustee of any mutual fund;
- (b) not undertake any business activities other than in the nature of management and advisory services provided to pooled assets including offshore funds, insurance funds, pension funds, provident funds, [such categories of foreign portfolio investor subject to such conditions, as maybe specified by the Board from time to time], if any of such activities are not in conflict with the activities of the mutual fund:

**Provided that** the asset management company may itself or through its subsidiaries undertake such activities, as permitted under clause (b), if, -

- (i) it satisfies the Board that bank and securities accounts are segregated activity wise;
- (ii) it meets with the capital adequacy requirements, if any, separately for each such activity and obtain separate approval, if necessary under the relevant regulations;
- (iii) it ensures that there is no material conflict of interest across different activities;
- (iv) the absence of conflict of interest shall be disclosed to the trustees and unit holders in scheme information document and statement of additional information;
- (v) there are unavoidable conflict of interest situations, it shall satisfy itself that disclosures are made of source of conflict, potential 'material risk or damage' to investor interests and detailed parameters for the same;

- (vi) it appoints separate fund manager for each separate fund managed by it unless the investment objectives and asset allocation are same and the portfolio is replicated across all the funds managed by the fund manager:

**Provided that** the requirements of this clause shall not apply if the funds managed are of Category I foreign portfolio investors and/or Category II foreign portfolio investors which are appropriately regulated broad based funds, as specified in Securities and Exchange Board of India (Foreign Portfolio Investors) Regulations, 2014

- (vii) it ensures fair treatment of investors across different products that shall include, but not limited to, simultaneous buy and sell in the same equity security only through market mechanism and a written trade order management system; and
- (viii) it ensures independence to key personnel handling the relevant conflict of interest is provided through removal of direct link between remuneration to relevant asset management company personnel and revenues generated by that activity:

**Provided further** that the asset management company may, itself or through its subsidiaries, undertake portfolio management services and advisory services for other than broad based fund till further directions, as may be specified by the Board, subject to compliance with the following additional conditions:-

- (i) it satisfies the Board that key personnel of the asset management company, the system, back office, bank and securities accounts are segregated activity wise and there exist system to prohibit access to inside information of various activities;
- (ii) it meets with the capital adequacy requirements, if any, separately for each of such activities and obtain separate approval, if necessary under the relevant regulations.

Provided further that an asset management company may become a proprietary trading member for carrying out trades in the debt segment of the recognised stock exchanges, on behalf of its mutual fund schemes and may also become a self-clearing member of the recognised clearing corporations to clear and settle trades in the debt segment on behalf of its mutual fund schemes.

**Explanation:** —For the purpose of this regulation, with the exception of proviso to clause (vi) of first proviso to clause (b), the term 'broad based fund' shall mean the fund which has at least twenty investors and no single investor account for more than twenty five percent of corpus of the fund.

**Asset Management Company and its obligations**

25. (1) The asset management company shall take all reasonable steps and exercise due diligence to ensure that the investment of funds pertaining to any scheme is not contrary to the provisions of these regulations and the trust deed.
- (2) The asset management company shall exercise due diligence and care in all its investment decisions as would be exercised by other persons engaged in the same business.
- (2A) The asset management company shall obtain, wherever required under these regulations, prior in-principle approval from the recognized stock exchange(s) where units are proposed to be listed.
- (3) The asset management company shall be responsible for the acts of commission or omission by its employees or the persons whose services have been procured by the asset management company.
- (4) The asset management company shall submit to the trustees quarterly reports of each year on its activities and the compliance with these regulations.
- (5) The trustees at the request of the asset management company may terminate the assignment of the asset management company at any time:

**Provided that** such termination shall become effective only after the trustees have accepted the termination of assignment and communicated their decision in writing to the asset management company.

- (6) Notwithstanding anything contained in any contract or agreement or termination, the asset management company or its directors or other officers shall not be absolved of liability to the mutual fund for their acts of commission or omission, while holding such position or office.
- (6A) (a) The Chief Executive Officer (whatever be the designation ) of the asset management company shall ensure that the mutual fund complies with all the provisions of these regulations and the guidelines or circulars issued in relation thereto from time to time and that the investments made by the fund managers are in the interest of the unit holders and shall also be responsible for the overall risk management function of the mutual fund.
- (b) Chief Executive Officer (whatever be the designation) shall also ensure that the Asset Management Company has adequate systems in place to ensure that the Code of Conduct for Fund Managers and Dealers specified in PART - B of the Fifth Schedule of these regulations are adhered to in letter and spirit. Any breach of the said Code of Conduct shall be brought to the attention of the Board of Directors of the Asset Management Company and Trustees.

**Explanation:—**For the purpose of this sub-regulation, the words “these regulations” shall mean and include the Securities and Exchange Board of India (Mutual Funds) Regulations, 1996 as amended from time to time.

- (6B) (a) The fund managers (whatever be the designation ) shall ensure that the funds of the schemes are invested to achieve the objectives of the scheme and in the interest of the unit holders.
- (b) The Fund Managers (whatever be the designation) shall abide by the Code of Conduct for Fund Managers and Dealers specified in PART - B of the Fifth Schedule of Securities and Exchange Board of India (Mutual Funds) Regulations, 1996 and submit a quarterly self-certification to the Trustees that they have complied with the said code of conduct or list exceptions, if any.

**Explanation:-** For the purposes of this sub-regulation, the phrase “Fund Managers” shall include Chief Investment Officer (whatever be the designation).

- (6C) (a) The Dealers (whatever be the designation) shall ensure that orders are executed on the best available terms, taking into account the relevant market at the time for transactions of the kind and size concerned to achieve the objectives of the scheme and in the best interest of all the unit holders.
- (b) The Dealers (whatever be the designation) shall abide by the Code of Conduct for Fund Managers and Dealers specified in PART - B of the Fifth Schedule of the Securities and Exchange Board of India (Mutual Funds) Regulations, 1996 and submit a quarterly self- certification to the Trustees that they have complied with the said code of conduct or list exceptions, if any.
- (7) (a) An asset management company shall not through any broker associated with the sponsor, purchase or sell securities, which is average of 5 per cent or more of the aggregate purchases and sale of securities made by the mutual fund in all its schemes:

**Provided that** for the purpose of this sub-regulation, the aggregate purchase and sale of securities shall exclude sale and distribution of units issued by the mutual fund :

**Provided further** that the aforesaid limit of 5 per cent shall apply for a block of any three months.

- (b) An asset management company shall not purchase or sell securities through any broker [other than a broker referred to in clause (a) of sub-regulation (7) which is average of 5 per cent or more of the aggregate purchases and sale of securities made by the mutual fund in all its schemes, unless the asset management company has recorded in writing the justification for exceeding

the limit of 5 per cent and reports of all such investments are sent to the trustees on a quarterly basis :

**Provided that** the aforesaid limit shall apply for a block of three months.

- (8) An asset management company shall not utilize the services of the sponsor or any of its associates, employees or their relatives, for the purpose of any securities transaction and distribution and sale of securities:

**Provided that** an asset management company may utilize such services if disclosure to that effect is made to the unitholders and the brokerage or commission paid is also disclosed in the half-yearly annual accounts of the mutual fund :

**Provided further** that the mutual funds shall disclose at the time of declaring half-yearly and yearly results :

- (i) any underwriting obligations undertaken by the schemes of the mutual funds with respect to issue of securities associate companies,
  - (ii) devolvement, if any,
  - (iii) subscription by the schemes in the issues lead managed by associate companies,
  - (iv) subscription to any issue of equity or debt on private placement basis where the sponsor or its associate companies have acted as arranger or manager.
- (9) The asset management company shall file with the trustees the details of transactions in securities by the key personnel of the asset management company in their own name or on behalf of the asset management company and shall also report to the Board, as and when required by the Board.
- (10) In case the asset management company enters into any securities transactions with any of its associates a report to that effect shall be sent to the trustees at its next meeting.
- (11) In case any company has invested more than 5 per cent of the net asset value of a scheme, the investment made by that scheme or by any other scheme of the same mutual fund in that company or its subsidiaries shall be brought to the notice of the trustees by the asset management company and be disclosed in the half-yearly and annual accounts of the respective schemes with justification for such investment
- Provided** the latter investment has been made within one year of the date of the former investment calculated on either side.
- (12) The asset management company shall file with the trustees and the Board—
- (a) detailed bio-data of all its directors along with their interest in other companies within fifteen days of their appointment;

- (b) any change in the interests of directors every six months; and
  - (c) a quarterly report to the trustees giving details and adequate justification about the purchase and sale of the securities of the group companies of the sponsor or the asset management company, as the case may be, by the mutual fund during the said quarter.
- (13) Each director of the asset management company shall file the details of his transactions of dealing in securities with the trustees on a quarterly basis in accordance with guidelines issued by the Board.
- (14) The asset management company shall not appoint any person as key personnel who has been found guilty of any economic offence or involved in violation of securities laws.
- (15) The asset management company shall appoint registrars and share transfer agents who are registered with the Board:
- Provided** if the work relating to the transfer of units is processed in-house, the charges at competitive market rates may be debited to the scheme and for rates higher than the competitive market rates, prior approval of the trustees shall be obtained and reasons for charging higher rates shall be disclosed in the annual accounts.
- (16) The asset management company shall abide by the Code of Conduct as specified in PART-A of the Fifth Schedule.
- (17) The asset management company shall not invest in any of its scheme, unless full disclosure of its intention to invest has been made in the offer documents, in case of schemes launched after the notification of Securities and Exchange Board of India (Mutual Funds) (Amendment) Regulations, 2011:
- Provided that** an asset management company shall not be entitled to charge any fee on its investment in that scheme.
- (18) The asset management company shall not carry out its operations including trading desk, unit holder servicing and investment operations outside the territory of India.
- (19) The asset management company shall compute and carry out valuation of investments made by its scheme(s) in accordance with the investment valuation norms specified in Eighth Schedule, and shall publish the same.
- (20) The asset management company and the sponsor of the mutual fund shall be liable to compensate the affected investors and/or the scheme for any unfair treatment to any investor as a result of inappropriate valuation.

- (21) The asset management company shall report and disclose all the transactions in debt and money market securities, including inter scheme transfers, as may be specified by the Board.

### Appointment of custodian

26. (1) The mutual fund shall appoint a Custodian to carry out the custodial services for the schemes of the fund and sent intimation of the same to the Board within fifteen days of the appointment of the Custodian:

**Provided that** in case of a gold exchange traded fund scheme, the assets of the scheme being gold or gold related instruments may be kept in custody of a bank which is registered as a custodian with the Board.

**Provided further** that in case of a real estate mutual fund scheme, the title deed of real estate assets held by it may be kept in the custody of a custodian registered with the Board.

**Provided also** that mutual fund schemes investing in exchange traded commodity derivatives may appoint a custodian to have custody of the underlying goods in case of physical settlement of such contracts.

- (2) No custodian in which the sponsor or its associates hold 50 per cent or more of the voting rights of the share capital of the custodian or where 50 per cent or more of the directors of the custodian represent the interest of the sponsor or its associates shall act as custodian for a mutual fund constituted by the same sponsor or any of its associates or subsidiary company:

**Provided that** where the sponsor or its associates hold 50 per cent or more of the voting rights of the share capital of the custodian, such custodian may act as custodian for a mutual fund constituted by the same sponsor or any of its associates or subsidiary company if:

- (i) the sponsor has a net worth of at least twenty thousand crore rupees at all points of time;
- (ii) 50 per cent or more of the directors of the custodian are those who do not represent the interest of the sponsor or its associates;
- (iii) the custodian and the asset management company of a mutual fund are not subsidiaries of each other;
- (iv) no person is a director of both the custodian and the asset management company of a mutual fund; and

- (v) the custodian and the asset management company of a mutual fund sign an undertaking that they will act independently of each other in their dealings with the scheme

#### **Agreement with custodian**

27. The mutual fund shall enter into a custodian agreement with the custodian, which shall contain the clauses which are necessary for the efficient and orderly conduct of the affairs of the custodian:

**Provided that** the agreement, the service contract, terms and appointment of the custodian shall be entered into with the prior approval of the trustees.

## **CHAPTER V**



### **SCHEMES OF MUTUAL FUND**

#### **Procedure for launching of schemes**

28. (1) No scheme shall be launched by the asset management company unless such scheme is approved by the trustees and a copy of the offer document has been filed with the Board.
- (2) The mutual fund shall pay the minimum filing fee specified in the Second Schedule to the Board while filing the offer document under sub-regulation (1).
- (3) The mutual fund shall pay the balance filing fee calculated in accordance with the Second Schedule to the Board within such time as may be specified by the Board.
- (4) [The sponsor or asset management company shall invest not less than one percent of the amount which would be raised in the new fund offer or fifty lakh rupees, whichever is less, and such investment shall not be redeemed unless the scheme is wound up: ]
- Provided that the investment by the sponsor or asset management company shall be made in such option of the scheme, as may be specified by the Board.

#### **29. Disclosures in the offer document**

- (1) The offer document shall contain disclosures which are adequate in order to enable the investors to make informed investment decision [including the disclosure on maximum investments proposed to be made by the scheme in the listed securities of the group companies of the sponsor.
- (2) The Board may in the interest of investors require the asset management company to carry out such modifications in the offer document as it deems fit.

- (3) In case no modifications are suggested by the Board in the offer document within 21 working days from the date of filing, the asset management company may issue the offer document.
- (4) No one shall issue any form of application for units of a mutual fund unless the form is accompanied by the memorandum containing such information as may be specified by the Board.
- (5) The offer document shall contain the disclosure regarding the prior in principle approval obtained from the recognized stock exchange(s), where units are proposed to be listed in accordance with these regulations.

### **Nomination**

- 29A.** (1) The asset management company shall provide an option to the unitholder to nominate, in the manner specified in Fourth Schedule, a person in whom the units held by him shall vest in the event of his death.
- (2) Where the units are held by more than one person jointly, the joint unitholders may together nominate a person in whom all the rights in the units shall vest in the event of death of all the joint unit holders.

### **Advertisement material**

- 30.** Advertisements shall be in conformity with the Advertisement Code as specified in the Sixth Schedule and shall be submitted to the Board within 7 days from the date of issue.

### **Misleading statements**

- 31.** The offer document and advertisement materials shall not be misleading or contain any statement or opinion which are incorrect or false.

### **In-principle approval from recognised stock exchange(s).**

- 31A.** The mutual fund, which intends to list units of its scheme on the recognised stock exchange(s), shall obtain 'in-principle' approval from recognised stock exchange(s) in the manner as specified by the recognised stock exchange(s) from time to time.

### **Listing Agreement**

- 31B.** Every mutual fund desirous of listing units of its schemes on a recognised stock exchange shall execute an agreement with such stock exchange.

### **Listing of close ended schemes**

- 32.** Every close ended scheme, other than an equity linked savings scheme, shall be listed on a recognised stock exchange within such time period and subject to such conditions as specified by the Board.

**Repurchase of close ended schemes**

33. (1) Units of a close ended scheme, other than those of an equity linked savings scheme, launched on or after the commencement of the Securities and Exchange Board of India (Mutual Funds) (Amendment) Regulations, 2009 shall not be repurchased before the end of maturity period of such scheme.
- (2) The units of close ended schemes referred to in the proviso to regulation 32 may be open for sale or redemption at fixed predetermined intervals if the maximum and minimum amount of sale or redemption of the units and the periodicity of such sale or redemption have been disclosed in the offer document.
- (3) The units of close ended scheme may be converted into open-ended scheme,—
- (a) if the offer document of such scheme discloses the option and the period of such conversion; or
- (b) the unitholders are provided with an option to redeem their units in full.
- (4) A close ended scheme shall be fully redeemed at the end of the maturity period

**Provided that** a close-ended scheme may be allowed to be rolled over if the purpose, period and other terms of the roll over and all other material details of the scheme including the likely composition of assets immediately before the roll over, the net assets and net asset value of the scheme, are disclosed to the unitholders and a copy of the same has been filed with the Board:

**Provided further** that such roll over will be permitted only in the case of those unitholders who express their consent in writing and the unitholders who do not opt for the roll over or have not given written consent shall be allowed to redeem their holdings in full at net asset value based price.

**Offering period**

34. No scheme of a mutual fund other than the initial offering period of any equity linked savings schemes shall be open for subscription for more than 15 days:

**Provided that** in case of mutual fund schemes eligible under Rajiv Gandhi Equity Savings Scheme, the period specified in this regulation shall not be more than thirty days.

**Allotment of units and refunds of moneys**

35. (1) The asset management company shall specify in the offer document,—
- (a) the minimum subscription amount it seeks to raise under the scheme; and
- (b) in case of oversubscription the extent of subscription it may retain :

**Provided that** where the asset management company retains the oversubscription referred to in clause (b), all the applicants applying upto five thousand units shall be given full allotment subject to the oversubscription mentioned in clause (b).

- (2) The mutual fund and asset management company shall be liable to refund the application money to the applicants,—
  - (i) if the mutual fund fails to receive the minimum subscription amount referred to in clause (a) of sub-regulation (1);
  - (ii) if the moneys received from the applicants for units are in excess of subscription as referred to in clause (b) of sub-regulation (1).
- (3) Any amount to be refunded to the applicants under sub-regulation (2) shall be refunded within a period of five working days from the date of closure of subscription list and in the manner as may be specified by the Board from time to time.
- (4) In the event of failure to refund the amounts within the period specified in sub-regulation (3), the asset management company shall be liable to pay interest to the applicants at a rate of fifteen per cent per annum from the expiry of five working days from the date of closure of the subscription list:

**Provided that** in case of mutual fund schemes eligible under Rajiv Gandhi Equity Savings Scheme, the period specified in this sub-regulation shall be fifteen days from the closure of the initial subscription list.

#### **Statement of accounts or unit certificates**

36. (1) An applicant in a scheme whose application has been accepted shall have the option either to receive the statement of accounts or to hold the units in dematerialised form and the asset management company shall issue to such applicant, a statement of accounts specifying the number of units allotted to the applicant or issue units in the dematerialized form as soon as possible but not later than five working days from the date of closure of the initial subscription list or from the date of receipt of the application.

**Provided that** if an applicant so desires, the asset management company shall issue the unit certificates to the applicant within five working days of the receipt of request for the certificate:

**Provided further** that in case of mutual fund schemes eligible under Rajiv Gandhi Equity Savings Scheme, the period specified in this sub-regulation shall be fifteen days from the closure of the initial subscription list.

- (2) The asset management company shall issue units in dematerialized form to a unit holder in a scheme within two working days of the receipt of request from the unit holder.

- (3) The asset management company shall ensure that consolidated account statement for each calendar month is issued, as per the timeline specified by the Board from time to time, detailing all the transactions and holding at the end of the month including transaction charges paid to the distributor, across all schemes of all mutual funds, to all the investors in whose folios transaction has taken place during that month:

**Provided that** the asset management company shall ensure that a consolidated account statement every half yearly (September/ March) is issued, as per the timeline specified by the Board from time to time, detailing holding at the end of the six month, across all schemes of all mutual funds, to all such investors in whose folios no transaction has taken place during that period:

**Provided further** that the asset management company shall identify common investor across fund houses by their permanent account number for the purposes of sending consolidated account statement.

**Explanation:-** For the purpose of this regulation, the word 'transaction' shall include purchase, redemption, switch, dividend payout, dividend reinvestment, systematic investment plan, systematic withdrawal plan, systematic transfer plan and bonus transactions.

### Transfer of units

37. (1) A unit unless otherwise restricted or prohibited under the scheme, shall be freely transferable by act of parties or by operation of law.
- (1A) A unitholder, in a close ended scheme listed on a recognized stock exchange, who desires to trade in units shall hold units in dematerialised form.
- (2) The asset management company shall, on production of instrument of transfer together with relevant unit certificates, register the transfer and return the unit certificate to the transferee within thirty days from the date of such production:

**Provided that** if the units are with the depository such units will be transferable in accordance with the provisions of the Securities and Exchange Board of India (Depositories and Participants) Regulations, 2018.

### Guaranteed returns

38. No guaranteed return shall be provided in a scheme
- (a) unless such returns are fully guaranteed by the sponsor or the asset management company;
  - (b) unless a statement indicating the name of the person who will guarantee the return, is made in the offer document;
  - (c) the manner in which the guarantee is to be met has been stated in the offer document.

**Capital Protection oriented schemes**

**38A.** A capital protection oriented scheme may be launched, subject to the following:

- (a) the units of the scheme are rated by a registered credit rating agency from the viewpoint of the ability of its portfolio structure to attain protection of the capital invested therein;
- (b) the scheme is close ended; and
- (c) there is compliance with such other requirements as may be specified by the Board in this behalf.

**Winding up**

**39.** (1) A close-ended scheme shall be wound up on the expiry of duration fixed in the scheme on the redemption of the units unless it is rolled over for a further period under sub-regulation (4) of regulation 33.

(2) A scheme of a mutual fund may be wound up, after repaying the amount due to the unit holders,

- (a) on the happening of any event which, in the opinion of the trustees, requires the scheme to be wound up; or
- (b) if seventy-five per cent of the unit holders of a scheme pass a resolution that the scheme be wound up; or
- (c) if the Board so directs in the interest of the unitholders.

(3) Where a scheme is to be wound up under sub-regulation (2), the trustees shall give notice disclosing the circumstances leading to the winding up of the scheme:—

- (a) to the Board; and
- (b) in two daily newspapers having circulation all over India, a vernacular newspaper circulating at the place where the mutual fund is formed.

**Effect of winding up**

**40.** On and from the date of the publication of notice under clause (b) of sub-regulation (3) of regulation 39, the trustee or the asset management company as the case may be, shall—

- (a) cease to carry on any business activities in respect of the scheme so wound up;
- (b) cease to create or cancel units in the scheme;
- (c) cease to issue or redeem units in the scheme.

**Procedure and manner of winding up**

41. (1) The trustee shall call a meeting of the unitholders to approve by simple majority of the unitholders present and voting at the meeting resolution for authorising the trustees or any other person to take steps for winding up of the scheme:

**Provided that** a meeting of the unitholders shall not be necessary if the scheme is wound up at the end of maturity period of the scheme.

- (2) (a) The trustee or the person authorised under sub-regulation (1) shall dispose of the assets of the scheme concerned in the best interest of the unitholders of that scheme.
- (b) The proceeds of sale realised under clause (a), shall be first utilised towards discharge of such liabilities as are due and payable under the scheme and after making appropriate provision for meeting the expenses connected with such winding up, the balance shall be paid to the unitholders in proportion to their respective interest in the assets of the scheme as on the date when the decision for winding up was taken.
- (3) On the completion of the winding up, the trustee shall forward to the Board and the unitholders a report on the winding up containing particulars such as circumstances leading to the winding up, the steps taken for disposal of assets of the fund before winding up, expenses of the fund for winding up, net assets available for distribution to the unit holders and a certificate from the auditors of the fund.
- (4) Notwithstanding anything contained in this regulation, the provisions of these regulations in respect of disclosures of half-yearly reports and annual reports shall continue to be applicable until winding up is completed or the scheme ceases to exist].

**Winding up of the scheme**

42. After the receipt of the report under sub-regulation (3) of regulation 41, if the Board is satisfied that all measures for winding up of the scheme have been complied with, the scheme shall cease to exist.

**Delisting of units**

- 42A. The units of a mutual fund scheme shall be delisted from a recognised stock exchange in accordance with the guidelines as may be specified by the Board.

## CHAPTER VI



### INVESTMENT OBJECTIVES AND VALUATION POLICIES

#### Investment objective

43. (1) Subject to other provisions of these regulations, a mutual fund may invest moneys collected under any of its schemes only in—
- (a) securities;
  - (b) money market instruments;
  - (c) privately placed debentures;
  - (d) securitised debt instruments, which are either asset backed or mortgage backed securities;
  - (e) gold or gold related instruments;
  - (f) real estate assets as defined in clause (a) of regulation 49A;
  - (g) infrastructure debt instrument and assets as specified in clause (1) of regulation 49L;
  - (h) any other assets or instruments as may be specified by the Board from time to time.
- (2) Any investment made under sub-regulation (1) shall be in accordance with the investment objective of the relevant mutual fund scheme.
- (3) Moneys collected under any money market scheme of a mutual fund shall be invested only in money market instruments.
- (4) Moneys collected under any gold exchange traded fund scheme shall be invested only in gold or gold related instruments, in accordance with sub-regulation (5) of regulation 44.
- (5) Moneys collected under a real estate mutual fund scheme shall be invested in accordance with regulation 49E.

#### Investment, borrowing, restriction, etc

44. (1) Any investment to be made under regulation 43 shall be invested subject to the investment restriction specified in the Seventh Schedule:
- Provided that** nothing in the Seventh Schedule, save clause 14 therein shall apply to a gold exchange traded fund scheme.
- (1A) The mutual fund having an aggregate of securities which are worth ₹ 10 crores or more, as on the latest balance-sheet date, shall subject to such instructions as may

be issued from time to time by the Board settle their transactions entered on or after January 15, 1998, only through dematerialised securities.

- (2) The mutual fund shall not borrow except to meet temporary liquidity needs of the mutual funds for the purpose of repurchase, redemption of units or payment of interest or dividend to the unitholders:

**Provided that** the mutual fund shall not borrow more than 20 per cent of the net asset of the scheme and the duration of such a borrowing shall not exceed a period of six months.

- (3) Save as otherwise expressly provided under these regulations, the mutual fund shall not advance any loans for any purpose.
- (4) A mutual fund may lend and borrow securities in accordance with the framework relating to short selling and securities lending and borrowing specified by the Board.
- (5) A gold exchange traded fund scheme shall be subject to the following investment restrictions:
  - (a) the funds of any such scheme shall be invested only in gold or gold related instruments in accordance with its investment objective, except to the extent necessary to meet the liquidity requirements for honoring repurchases or redemptions, as disclosed in the offer document; and
  - (B) pending deployment of funds in accordance with clause (b), the mutual fund may invest such funds in short-term deposits of scheduled commercial banks.

#### **Carry forward transactions, derivatives transactions and short selling transactions**

45. (1) The funds of a scheme shall not in any manner be used in carry forward transactions:

**Provided that** a mutual fund may enter into derivatives transactions on a recognized stock exchange, subject to the framework specified by the Board.
- (2) A mutual fund may enter into short selling transactions on a recognized stock exchange, subject to the framework relating to short selling and securities lending and borrowing specified by the Board.

#### **Underwriting of securities**

46. Mutual funds may enter into underwriting agreement after obtaining a certificate of registration in terms of the Securities and Exchange Board of India (Underwriters) Rules and Securities and Exchange Board of India (Underwriters) Regulations, 1993 authorising it to carry on activities as underwriters.

#### **Explanation:**

- (1) For the purpose of these regulations, the underwriting obligation will be deemed as if investments are made in such securities.

- (2) The capital adequacy norms for the purpose of underwriting shall be the net asset of the scheme:

**Provided that** the underwriting obligation of a mutual fund shall not at any time exceed the total net asset value of the scheme.

### **Valuation of investments**

47. Every mutual fund shall ensure that the asset management company computes and carries out valuation of investments made by its scheme(s) in accordance with the investment valuation norms specified in Eighth Schedule, and publishes the same.

### **Computation of Net Asset Value**

48. (1) Every mutual fund shall compute the Net Asset Value of each scheme by dividing the net assets of the scheme by the number of units outstanding on the valuation date.
- (2) The Net Asset Value of the scheme shall be calculated on daily basis and disclosed in the manner specified by the Board.

### **Pricing of Units**

49. (1) The price at which the units may be subscribed or sold and the price at which such units may at any time be repurchased by the mutual fund shall be made available to the investors in the manner specified by the Board.
- (2) The mutual fund shall provide the methodology of calculating the sale and repurchase price of units in the manner specified by the Board.
- (3) While determining the price of the units, the mutual fund shall ensure that the repurchase price of an open ended scheme is not lower than 95 per cent of the Net Asset Value.
- (4) The price of units shall be determined with reference to the last determined Net Asset Value as mentioned in sub-regulation (3) unless,
- (a) the scheme announces the Net Asset Value on a daily basis; and
- (b) the sale price is determined with or without a fixed premium added to the future net asset value

which is declared in advance.

## CHAPTER VIA



### REAL ESTATE MUTUAL FUND SCHEMES

#### Definitions

**49A.** For the purposes of this Chapter, unless the context otherwise requires-

- (a) “real estate asset” means an identifiable immovable property-
  - (i) which is located within India in such city as may be specified by the Board from time to time or in a special economic zone within the meaning of clause (za) of section 2 of the Special Economic Zones Act, 2005 (28 of 2005);
  - (ii) on which construction is complete and which is usable;
  - (iii) which is evidenced by valid title documents;
  - (iv) which is legally transferable;
  - (v) which is free from all encumbrances;
  - (vi) which is not subject matter of any litigation; but does not include-
    - I. a project under construction; or
    - II. vacant land; or
    - III. deserted property; or
    - IV. land specified for agricultural use; or
    - V. a property which is reserved or attached by any Government or other authority or pursuant to orders of a court of law or the acquisition of which is otherwise prohibited under any law for the time being in force;
- (b) “real estate valuer” means a qualified valuer of real estate assets who has been accredited by a credit rating agency registered with the Board.

#### Applicability

- 49B.** (1) The provisions of this Chapter shall apply to real estate mutual fund schemes.
- (2) Unless the context otherwise requires, all other provisions of these regulations and the guidelines and circulars issues thereunder shall apply to real estate mutual fund schemes, and trustees and asset management companies in relation to such schemes, except where specific provisions are made in relation thereto under this Chapter.

**Additional eligibility criteria**

- 49C.** (1) A Certificate of registration may be granted under regulation 9 to an applicant proposing to launch only real estate mutual fund schemes if he;-
- (a) has been carrying on business in real estate for a period of not less than five years;
  - (b) fulfills eligibility criteria provided in regulation 7, except that specified in item (i) of the Explanation to clause (a) thereof:
- (2) A real estate mutual fund scheme of a mutual fund registered under sub-regulation (1) shall not invest in the securities mentioned in sub-clauses (ii) to (iii) of clause (a) or in clause (b) of sub-regulation (2) of regulation 49E unless it has key personnel having adequate professional experience in finance and financial services related field.
- (3) An existing mutual fund may launch a real estate mutual fund scheme if it has an adequate number of key personnel and directors having adequate experience in real estate.

**Other conditions for real estate mutual fund schemes**

- 49D.** (1) Every real estate mutual fund scheme shall be close-ended and its units shall be listed on a recognized stock exchange:
- Provided that** the redemption of a real estate mutual fund scheme may be done in a staggered manner.
- (2) The units issued by a real estate mutual fund scheme shall not confer any right on the unit holders to use the real estate assets held by the scheme and any provision to the contrary in the trust deed or in the terms of issue shall be void.
  - (3) The title deeds pertaining to real estate assets held by a real estate mutual fund scheme shall be kept in safe custody with the custodian of the mutual fund.
  - (4) A real estate mutual fund scheme shall not undertake lending or housing finance activities.
  - (5) All financial transactions of a real estate mutual fund scheme shall be routed through banking channels and they shall not be cash or unaccounted transactions.

**Permissible investments**

- 49E.** (1) Every real estate mutual fund scheme shall invest at least thirty five per cent. of the net assets of the scheme directly in real estate assets.

- (2) Subject to sub-regulation (1), every real estate mutual fund scheme shall invest-
- (a) at least seventy five per cent. of the net assets of the scheme in-
    - (i) real estate assets;
    - (ii) mortgage backed securities (but not directly in mortgages);
    - (iii) equity shares or debentures of companies engaged in dealing in real estate assets or in undertaking real estate development projects, whether listed on a recognized stock exchange in India or not; (b) the balance in other securities;
- (3) Unless otherwise disclosed in the offer document, no mutual fund shall, under all its real estate mutual fund schemes, invest more than thirty per cent. of its net assets in a single city.
- (4) No mutual fund shall, under all its real estate mutual fund schemes, invest more than fifteen per cent. of its net assets in the real estate assets of any single real estate project.
- Explanation:** For the purposes of this regulation, “single real estate project” means a project by a builder in a single location within a city.
- (5) No mutual fund shall, under all its real estate mutual fund schemes, invest more than twenty five per cent. of the total issued capital of any unlisted company.
- (6) No mutual fund shall invest more than fifteen per cent of the net assets of any of its real estate mutual fund schemes in the equity shares or debentures of any unlisted company.
- (7) No real estate mutual fund scheme shall invest in –
- (a) any unlisted security of the sponsor or its associate or group company;
  - (b) any listed security issued by way of preferential allotment by the sponsor or its associate or group company;
  - (c) any listed security of the sponsor or its associate or group company, in excess of twenty five per cent of the net assets of the scheme.
- (8) No mutual fund shall transfer real estate assets amongst its schemes.
- (9) No mutual fund shall invest in any real estate asset which was owned by the sponsor or the asset management company or any of its associates during the period of last five years or in which the sponsor or the asset management company or any of its associates hold tenancy or lease rights.

**Valuation of real estates assets and declaration of net asset value**

- 49F.** (1) The real estate assets held by a real estate mutual fund scheme shall be valued –
- (a) at cost price on the date of acquisition; and
  - (b) at fair price on every ninetieth day from the day of its purchase in accordance with the norms specified in Schedule IXB.
- (2) The asset management company, its directors, the trustees and the real estate valuer shall ensure that the valuation of assets held by a real estate mutual fund scheme are done in good faith, in accordance with the norms specified in Schedule IX B and that the accounts of the scheme are prepared in accordance with accounting principles specified in Schedule XI.
- (3) The net asset value of every real estate mutual fund scheme shall be calculated and declared at the close of each business day on the basis of the most current valuation of the real estate assets held by the scheme and accrued income thereon, if any.

**Duties of asset management company**

- 49G.** (1) Without prejudice to the provisions of regulation 21, the asset management company of a mutual fund having real estate mutual fund schemes shall appoint suitable number of qualified key personnel with relevant experience, before undertaking investment management of real estate assets of a real estate mutual fund scheme.
- (2) The asset management company may appoint advisors to advise it on acquisitions or proposed acquisitions of real estate assets.
- (3) The asset management company shall exercise due care while appointing real estate valuers for valuing the real estate assets held by the real estate mutual fund scheme and shall ensure that there is no conflict of interest.
- (4) The asset management company shall lay down an adequate system of internal controls and risk management.
- (5) The asset management company shall put in place systems to ensure that all financial transactions are done through banking channels and exclude transactions in cash or unaccounted transactions.
- (6) The asset management company shall exercise due diligence in maintenance of the assets of a real estate mutual fund scheme and shall ensure that there is no avoidable deterioration in their value.
- (7) The asset management company shall ensure that the real estate assets held by a real estate mutual fund scheme are adequately insured against impair, damage or destruction.

- (8) The asset management company shall ensure that the cost of maintenance and insurance of real estate assets is within reasonable limits and that no funds of the scheme are utilized towards development of such assets.
- (9) The asset management company shall ensure that a real estate valuer certifies compliance with sub-regulation (8) on an annual basis.
- (10) The asset management company shall ensure that no real estate valuer continues with valuation of particular real estate asset for more than two years and that no such valuer values the same asset for a period of at least three years thereafter.
- (11) The asset management company shall record in writing, the details of its decision making process in buying or selling real estate assets together with the justifications for such decisions and forward the same periodically to trustees.
- (12) The asset management company shall ensure that investment of funds of the real estate mutual fund scheme is not made contrary to provisions of this chapter and the trust deed.
- (13) The asset management company shall obtain, wherever required under these regulations, prior in-principle approval from the recognized stock exchange(s) where units are proposed to be listed.

#### **Usage of real estate assets of a real estate mutual fund scheme**

- 49H.** (1) The asset management company may let out or lease out the real estate assets held by the real estate mutual fund scheme if the term of such lease or letting does not extend beyond the period of maturity of the scheme.
- (2) Where real estate assets are let out or leased out, the asset management company shall diligently collect the rents or other income in a timely manner.
- (3) Real estate assets held by a real estate mutual fund scheme may be let out to the sponsor, asset management company or any of their associates, at market price or otherwise on commercial terms:

**Provided that** not more than 25% of the total rental income of the scheme shall be derived from assets so let out.

#### **Duties of trustees**

- 49I.** (1) The trustees shall ensure that the asset management company has the necessary expertise, internal control systems and risk management mechanism to invest in and manage investments in real estate assets on a continuous basis.
- (2) The trustees shall monitor whether due diligence is exercised by the asset management company in managing the investments.

- (3) The trustees shall review the market price of the units during the year and shall recommend proportionate buy back of units from unit holders, if the units are traded at steep discount to the net asset value.
- (4) The magnitude of discount which shall amount to steep discount referred to in sub-regulation (3) shall be disclosed in the offer document.
- (5) The trustees shall ensure that only permissible investments are made by the asset management company.
- (6) The trustees shall ensure that all financial transactions of the real estate mutual fund scheme are made only through banking channels and that systems exist to exclude transactions in cash and unaccounted transactions.
- (7) The trustees shall lay down the criteria for empanelment of real estate brokers.
- (8) The trustees shall lay down the broad procedure to be followed by the asset management company while transacting in real estate assets.
- (9) The trustees shall require the asset management company to set up such systems and submit such reports to trustees, as may be necessary for them to effectively monitor the performance and functioning of the real estate mutual fund schemes.
- (10) The trustees shall include a confirmation on compliance with sub regulation (9) in their half yearly reports made to the Board.
- (11) The trustees shall obtain, wherever required under these regulations, prior in principle approval from the recognised stock exchange(s) where units are proposed to be listed.

**Disclosures in offer document and other disclosures**

- 49J.** (1) The offer documents of real estate mutual fund schemes shall contain disclosures which are adequate for investors to make informed investment decisions and such further disclosures as may be specified by the Board.
- (2) The portfolio disclosures and financial results in respect of a real estate mutual fund scheme shall contain such further disclosures as are specified by the Board.
  - (3) Advertisements in respect of real estate mutual fund schemes shall conform to such guidelines as may be specified by the Board.

**Transactions by employees etc.**

- 49K.** (1) All transactions done by the trustees or the employees or directors of the asset management company or the trustee company in real estate assets shall be disclosed by them to the compliance officer within one month of the transaction.
- (2) The compliance officer shall make a report thereon from the view point of possible conflict of interest and shall submit it to the trustees with his recommendations, if any.

- (3) The persons covered in sub-regulation (1) may obtain the views of the trustees before entering into the transaction in real estate assets, by making a suitable request to them.

## CHAPTER VI -B



### INFRASTRUCTURE DEBT FUND SCHEMES

#### Definitions

**49L.** For the purposes of this Chapter, unless the context otherwise requires-

- (1) “Infrastructure debt fund scheme” means a mutual fund scheme that invests primarily (minimum 90% of scheme assets) in the debt securities or securitized debt instrument of infrastructure companies or infrastructure capital companies or infrastructure projects or special purpose vehicles which are created for the purpose of facilitating or promoting investment in infrastructure, and other permissible assets in accordance with these regulations or bank loans in respect of completed and revenue generating projects of infrastructure companies or projects or special purpose vehicles.
- (2) “Infrastructure” includes the sectors as specified by guidelines issued by the Board or as notified by Ministry of Finance, from time to time.
- (3) ‘Strategic Investor’ means;
- (i) an Infrastructure Finance Company registered with Reserve bank of India as Non Banking Financial Company;
  - (ii) a Scheduled Commercial Bank;
  - (iii) International Multilateral Financial Institution;
  - (iv) Systemically Important Non-Banking Financial Companies registered with Reserve Bank of India
  - (v) Foreign Institutional Investors registered with the Board, subject to their applicable investment limits, which are long term investors in terms of the norms specified by SEBI.

#### Applicability

- 49M.** (1) The provisions of this chapter shall apply to infrastructure debt fund schemes launched by mutual funds.
- (2) All other provisions of these regulations and the guidelines and circulars issued thereunder, unless the context otherwise require or repugnant to the provisions of this

chapter, shall apply to infrastructure debt fund schemes, trustees and asset management companies in relation to such schemes.

#### **Eligibility criteria for launching infrastructure debt fund scheme**

- 49N.** (1) An existing mutual fund may launch an infrastructure debt fund schemes if it has an adequate number of key personnel having adequate experience in infrastructure sector.
- (2) A certificate of registration may be granted under regulation 9 to an applicant proposing to launch only infrastructure debt fund schemes if the sponsor or the parent company of the sponsor: -
- (a) has been carrying on activities or business in infrastructure financing sector for a period of not less than five years;
  - (b) fulfills eligibility criteria provided in Regulation 7.

**Explanation-**For the purpose of this clause, 'parent company of the sponsor' shall mean a company which holds at least 75% of paid up equity share capital of the sponsor.

#### **Offering period**

**49NA.** No scheme of an infrastructure debt fund, in the case of a public offer, shall be open for subscription for more than forty five days.

#### **Conditions for infrastructure debt fund schemes**

**49O.** (1) An infrastructure debt fund scheme shall be launched either as close-ended scheme maturing after more than five years or interval scheme with lock-in of five years and specified transaction period of not more than forty five days as may be specified in the scheme information document.

**Provided that** the tenure of the scheme may be extended to two years subject to approval of two-thirds of the unitholders by value of their investment in the scheme.

- (2) Units of infrastructure debt fund schemes shall be listed on a recognized stock exchange, provided that such units shall be listed only after being fully paid up.
- (3) Mutual Funds may disclose indicative portfolio of infrastructure debt fund scheme to its potential investors disclosing the type of assets the mutual fund will be investing.
- (4) An infrastructure debt fund scheme shall have minimum five investors and no single investor shall hold more than fifty percent of net assets of the scheme.
- (5) No infrastructure debt fund scheme shall accept any investment from any investor which is less than Rupees one crore.
- (6) The minimum size of the unit shall be Rupees ten lakhs.

- (7) Each scheme launched as infrastructure debt fund scheme shall have firm commitment from the strategic investors for contribution of an amount of at least Rupees twenty five crores before the allotment of units of the scheme are marketed to other potential investors.
- (8) Mutual Funds launching infrastructure debt fund scheme may issue partly paid units to the investors, subject to following conditions:
  - (a) The asset management company shall call for the unpaid portions depending upon the deployment opportunities;
  - (b) The offer document of the scheme shall disclose the interest or penalty which may be deducted in case of nonpayment of call money by the investors within stipulated time; and
  - (c) The amount of interest or penalty shall be retained in the scheme.

#### **Private Placement**

- 49-OA.** (1) The units of an infrastructure debt fund scheme may be offered through private placement to less than fifty persons, subject to approval by the trustees and the board of the asset management company.
- (2) The offer made under sub-regulation (1), shall be subject to the following:
- (a) A placement memorandum, in the manner as specified by the Board, shall be filed by the mutual fund with the Board at least seven days prior to the launch of the scheme; and
  - (b) the mutual fund shall pay to the Board, filing fee as specified in the Second Schedule.

#### **Permissible investments**

- 49P.** (1) Every infrastructure debt fund scheme shall invest at least ninety percent of the net assets of the scheme in the debt securities or securitized debt instruments of infrastructure companies or projects or special purpose vehicles which are created for the purpose of facilitating or promoting investment in infrastructure or bank loans in respect of completed and revenue generating projects of infrastructure companies or special purpose vehicle.

**Provided that** the funds received on account of re-payment of principal, whether by way of pre-payment or otherwise, with respect to the underlying assets of the scheme, shall be invested as specified in this sub-regulation:

**Provided further** that if the investments specified in this sub-regulation are not available, such funds may be invested in bonds of Public Financial Institutions and Infrastructure Finance Companies.

- (2) Subject to sub-regulation (1), every infrastructure debt fund scheme may invest the balance amount in equity shares, convertibles including mezzanine financing instruments of companies engaged in infrastructure, infrastructure development projects, whether listed on a recognized stock exchange in India or not; or money market instruments and bank deposits.
- (3) The investment restrictions shall be applicable on the life-cycle of the infrastructure debt fund scheme and shall be reckoned with reference to the total amount raised by the infrastructure debt fund scheme.
- (4) No mutual fund shall, under all its infrastructure debt fund schemes, invest more than thirty per cent of its net assets in the debt securities or assets of any single infrastructure company or project or special purpose vehicles which are created for the purpose of facilitating or promoting investment in infrastructure or bank loans in respect of completed and revenue generating projects of any single infrastructure company or project or special purpose vehicle.
- (5) An infrastructure debt scheme shall not invest more than 30% of the net assets of the scheme in debt instruments or assets of any single infrastructure company or project or special purpose vehicles which are created for the purpose of facilitating or promoting investment in infrastructure or bank loans in respect of completed and revenue generating projects of any single infrastructure company or project or special purpose vehicle.
- (5A) The overall investments by an infrastructure debt fund scheme in debt instruments or assets of infrastructure companies or projects or special purpose vehicles, which are created for the purpose of facilitating or promoting investment in infrastructure or bank loans in respect of completed and revenue generating projects of infrastructure companies or projects or special purpose vehicles, which are rated below investment grade or are unrated, shall not exceed 30% of the net assets of the scheme:  
**Provided that** the overall investment limit may increase up to 50% of the net assets of the scheme with the prior approval of the trustees and the board of the asset management company.
- (6) No infrastructure debt fund scheme shall invest in –
  - (i) Any unlisted security of the sponsor or its associate or group company;
  - (ii) Any listed security issued by way of preferential allotment by the sponsor or its associate or group company;
  - (iii) Any listed security of the sponsor or its associate or group company or bank loan in respect of completed and revenue generating projects of infrastructure companies or special purpose vehicles of the sponsor or its associate or group companies, in excess of twenty five per cent of the net assets of the scheme,

subject to approval of trustees and full disclosures to investors for investments made within the aforesaid limits; or

- (iv) any asset or securities owned by the sponsor or asset management company or their associates in excess of 30% of the net assets of the scheme, provided that-
  - (a) such investment is in assets or securities not below investment grade;
  - (b) the sponsor or its associates retains atleast 30% of the assets or securities, in which investment is made by the scheme, till the assets or securities are held in the scheme portfolio; and
  - (c) approval for such investment is granted by the trustees and full disclosures are made to the investors regarding such investment.

#### **Valuation of assets and declaration of net asset value**

- 49Q.** (1) The assets held by an infrastructure debt fund scheme shall be valued “in good faith” by the asset management company on the basis of appropriate valuation methods based on principles approved by the trustees.
- (2) The valuation shall be documented and the supporting data in respect of each security so valued shall be preserved at least for a period of five years after the expiry of the scheme.
- (3) The methods used to arrive at values ‘in good faith’ shall be periodically reviewed by the Trustees and by the statutory auditor of the mutual fund.
- (4) The valuation policy approved by the board of asset management company shall be disclosed in the scheme information document.
- (5) The net asset value of every infrastructure debt fund scheme shall be calculated and declared atleast once in each quarter.

#### **Duties of asset management company**

- 49R.** (1) The asset management company shall lay down an adequate system of internal controls and risk management.
- (2) The asset management company shall exercise due diligence in maintenance of the assets of an infrastructure debt fund scheme and shall ensure that there is no avoidable deterioration in their value.
- (3) The asset management company shall record in writing, the details of its decision making process in buying or selling infrastructure companies’ assets together with the justifications for such decisions and forward the same periodically to trustees.

- (4) The asset management company shall ensure that investment of funds of the Infrastructure Debt Fund schemes is not made contrary to provisions of this chapter and the trust deed.
- (5) The asset management company shall obtain, wherever required under these regulations, prior in-principle approval from the recognized stock exchange(s) where units are proposed to be listed.
- (6) The asset management company shall institute such mechanisms as to ensure that proper care is taken for collection, monitoring and supervision of the debt assets by appointing a service provider having extensive experience thereof, if required.

#### **Disclosures in offer document and other disclosures**

- 49S.** (1) The offer documents of infrastructure debt fund schemes shall contain disclosures which are adequate for investors to make informed investment decisions and such further disclosures as may be specified by the Board.
- (2) The portfolio disclosures and financial results in respect of an infrastructure debt fund schemes shall contain such further disclosures as may be specified by the Board.
  - (3) Advertisements in respect of infrastructure debt fund schemes shall conform to such guidelines as may be specified by the Board.

#### **Transactions by employees etc.**

- 49T.** (1) All transactions done by the trustees or the employees or directors of the asset management company or the trustee company in the investee companies shall be disclosed by them to the compliance officer within one month of the transaction.
- (2) The compliance officer shall make a report thereon from the view point of possible conflict of interest and shall submit it to the trustees with his recommendations, if any.
  - (3) The persons covered in sub-regulation (1) may obtain the views of the trustees before entering into the transaction in investee companies, by making a suitable request to them.

## **CHAPTER VII**



### **GENERAL OBLIGATIONS**

- 50.** To maintain proper books of account and records, etc.
- (1) Every asset management company shall keep and maintain proper books of account, records and documents, for each scheme so as to explain its transactions and to disclose at any point of time the financial position of each scheme and in particular

give a true and fair view of the state of affairs of the fund and intimate to the Board the place where such books of account, records and documents are maintained.

- (2) Every asset management company shall maintain and preserve for a period of eight years its books of account, records and documents.
- (3) The asset management company shall follow the accounting policies and standards as specified in Ninth Schedule so as to provide appropriate details of the scheme wise disposition of the assets of the fund at the relevant accounting date and the performance during that period together with information regarding distribution or accumulation of income accruing to the unitholder in a fair and true manner.

### **Financial year**

51. The financial year for all the schemes shall end as of March 31st of each year;

**Provided that**, for a new scheme commenced during a financial year, the disclosure and reporting requirements would apply for the period beginning from the date of its commencement and ending on March 31st of that financial year.

### **Credit of exit load to scheme**

51A. The exit load charged, if any, after the commencement of the SEBI (Mutual Funds) (Second Amendment) Regulations, 2012, shall be credited to the scheme.

### **52. Limitation on fees and expenses on issue of schemes**

- (1) All expenses should be clearly identified and appropriated in the individual schemes.
- (2) The asset management company may charge the scheme with investment and advisory fees which shall be fully disclosed in the offer document.
- (3) Deleted
- (4) In addition to the fees mentioned in sub-regulation (2), the asset management company may charge the scheme with the following expenses, namely:—
  - (a) Deleted
  - (b) recurring expenses including:—
    - (i) marketing and selling expenses including agents' commission, if any ;
    - (ii) brokerage and transaction cost ;
    - (iii) registrar services for transfer of units sold or redeemed ;
    - (iv) fees and expenses of trustees ;
    - (v) audit fees ;
    - (vi) custodian fees ;

- (vii) costs related to investor communication ;
  - (viii) costs of fund transfer from location to location ;
  - (ix) costs of providing account statements and dividend/redemption cheques and warrants ;
  - (x) insurance premium paid by the fund;
  - (xi) winding up costs for terminating a fund or a scheme;
  - (xii) costs of statutory advertisements;
  - (xiiia) in case of a gold exchange traded fund scheme, recurring expenses incurred towards storage and handling of gold;
  - (xiiib) in case of a capital oriented scheme, rating fees;
  - (xiiic) in case of a real estate mutual fund scheme, insurance premia and costs of maintenance of the real estate assets (excluding costs of development of such assets) over and above the expenses specified in regulation 52 to the extent disclosed in the offer document;
  - (xiiid) listing fees, in case of schemes listed on a recognised stock exchange; and
  - (xiiie) in case of schemes investing in exchange traded commodity derivatives, recurring expenses incurred towards storage and handling of the underlying goods, due to physical settlement of such contracts.
  - (xiiif) such other costs as may be approved by the Board.
- (5) Any expense other than those specified in sub-regulations (2) and (4) shall be borne by the asset management company or trustee or sponsors
- (5A) In case of a scheme other than an index fund scheme or an exchange traded fund, where, as per the scheme information document, the scheme will invest a minimum of sixty-five per cent of its net assets in equity and equity related instruments, the scheme will be considered as equity oriented scheme for the purpose of limits of total expense ratio as specified in these regulations.
- (6) The total expense ratio of the scheme excluding issue or redemption expenses, whether initially borne by the mutual fund or by the asset management company, but including the investment management and advisory fee shall be subject to the following limits:—
- (a) in case of fund of funds scheme -
    - (i) investing in liquid schemes, index fund scheme and exchange traded funds, the total expense ratio of the scheme including weighted average

of the total expense ratio levied by the underlying scheme(s) shall not exceed 1.00 per cent of the daily net assets of the scheme.

- (ii) investing a minimum of sixty-five per cent of assets under management in equity oriented schemes as per scheme information document, the total expense ratio of the scheme including weighted average of the total expense ratio levied by the underlying scheme(s) shall not exceed 2.25 per cent of the daily net assets of the scheme.
- (iii) investing in schemes other than as specified in clause (a)(i) and (a)(ii) of this sub-regulation, the total expense ratio of the scheme including weighted average of the total expense ratio levied by the underlying scheme(s) shall not exceed 2.00 per cent of the daily net assets of the scheme:

**Provided that** the total expense ratio to be charged over and above the weighted average of the total expense ratio of the underlying scheme shall not exceed two times the weighted average of the total expense ratio levied by the underlying scheme(s), subject to the overall ceilings as stated at clause a(i), a(ii) and a(iii).

- (b) in case of an index fund scheme or exchange traded fund, the total expense ratio of the scheme including the investment and advisory fees shall not exceed 1.00 per cent of the daily net assets.
- (c) in case of open ended schemes other than as specified in clause (a) and (b) above, the total expense ratio of the scheme shall not exceed the following limits:

Assets under management Slab (In ₹ crore)	Total expense ratio limits for equity oriented schemes	Total expense ratio limits for other than equity oriented schemes
on the first ₹ 500 crores of the daily net assets	2.25%	2%
on the next ₹ 250 crores of the daily net assets	2%	1.75%
on the next ₹ 1,250 crores of the daily net assets	1.75%	1.50%
on the next ₹ 3,000 crores of the daily net assets	1.60%	1.35%
on the next ₹ 5,000 crores of the daily net assets	1.50%	1.25%

On the next ₹ 40,000 crores of the daily net assets	Total expense ratio reduction of 0.05% for every increase of ₹ 5,000 crores of daily net assets or part thereof.	
On balance of the assets	1.05%	0.80%

- (d) in case of close ended and interval schemes,
- (i) the total expense ratio of equity oriented scheme(s) shall not exceed 1.25 per cent of the daily net assets of the scheme.
  - (ii) the total expense ratio of close ended and interval scheme(s) other than schemes specified in clause d (i) above shall not exceed 1.00 per cent of the daily net assets of the scheme.
- (6A) In addition to the limits specified in sub-regulation (6), the following costs or expenses may be charged to the scheme, namely-

- (a) brokerage and transaction costs which are incurred for the purpose of execution of trade and is included in the cost of investment, not exceeding 0.12 per cent in case of cash market transactions and 0.05 per cent in case of derivatives transactions;
- (b) expenses not exceeding of 0.30 per cent of daily net assets, if the new inflows from such cities as specified by the Board from time to time are at least -
  - (i) 30 per cent of gross new inflows in the scheme, or;
  - (ii) 15 per cent of the average assets under management (year to date) of the scheme, whichever is higher:

**Provided that** if inflows from such cities is less than the higher of sub-clause (i) or sub-clause (ii), such expenses on daily net assets of the scheme shall be charged on proportionate basis:

**Provided further** that expenses charged under this clause shall be utilised for distribution expenses incurred for bringing inflows from such cities:

**Provided further** that amount incurred as expense on account of inflows from such cities shall be credited back to the scheme in case the said inflows are redeemed within a period of one year from the date of investment;

- (c) additional expenses, incurred towards different heads mentioned under sub-regulations (2) and (4), not exceeding 0.05 per cent of daily net assets of the scheme or as specified by the Board:

**Provided that** such additional expenses shall not be charged to the schemes where the exit load is not levied or applicable.

- (7) Any expenditure in excess of the limits specified in sub-regulations (6) and (6A) shall be borne by the asset management company or by the trustee or sponsors.
- (8) The provisions of sub-regulations (3), (4), (5) and (6) will come into effect from 1st April, 1997 for those schemes of mutual funds which have been launched prior to notification of these regulations.

### **Declaration of dividends**

**52A.** A mutual fund may declare dividends in accordance with the offer document and subject to such Guidelines as may be specified by the Board.

### **Despatch of warrants and proceeds**

- 53.** Every mutual fund and asset management company shall,
- (a) despatch to the unitholders the dividend payments within 15 days from the record date;
  - (b) despatch the redemption or repurchase proceeds within 10 working days from the date of redemption or repurchase;
  - (c) in the event of failure to despatch the redemption or repurchase proceeds or dividend payments within the period specified in sub-clauses (a) and (b), the asset management company shall be liable to pay interest to the unitholders at such rate as may be specified by the Board for the period of such delay;
  - (d) notwithstanding payment of such interest to the unit-holders under subclause (c), the asset management company may be liable for penalty for failure to despatch the dividend or redemption or repurchase proceeds within the stipulated time.

### **Annual Report**

**54.** Every mutual fund or the asset management company shall prepare in respect of each financial year an annual report and annual statement of accounts of the schemes and the fund as specified in Eleventh Schedule.

### **Auditor's report**

**55.** (1) Every mutual fund shall have the annual statement of accounts audited by an auditor who is not in any way associated with the auditor of the asset management company.

**Explanation:** For the purposes of this sub-regulation and regulation 66 "auditor" means a firm, including a limited liability partnership, constituted under the LLP Act, 2008, who is eligible and qualified to audit the accounts of a company under section 141 of the Companies Act, 2013 (18 of 2013).

- (2) An auditor shall be appointed by the trustees.

- (3) The auditor shall forward his report to the trustees and such report shall form part of the Annual Report of the mutual fund.
- (4) The auditor's report shall comprise the following:—
  - (a) a certificate to the effect that,—
    - (i) he has obtained all information and explanations which, to the best of his knowledge and belief, were necessary for the purpose of the audit ;
    - (ii) the balance sheet and the revenue account give a fair and true view of the scheme, state of affairs and surplus or deficit in the Fund for the accounting period to which the Balance Sheet or, as the case may be, the Revenue Account relates ;
    - (iii) the statement of account has been prepared in accordance with accounting policies and standards as specified in the Ninth Schedule.

#### **Providing copies of Annual report and summary thereof**

- 56.** (1) The scheme wise Annual Report of a mutual fund or an abridged summary thereof shall be provided to all unitholders as soon as may be but not later than four months from the date of closure of the relevant accounts year in the manner specified by the Board.
- (2) The Annual Report and abridged summary thereof shall contain details as specified in the Eleventh Schedule and such other details as are necessary for the purpose of providing a true and fair view of the operations of the mutual fund:
- Provided that** the abridged scheme wise Annual Report provided to the unitholders is in the format prescribed by the Board in this regard.
- (3) Notwithstanding anything contained in sub-regulation (1), the mutual fund shall provide physical copy of the abridged summary of the Annual Report without any cost, if a request through any mode is received from a unit holder.
- (3A) The report provided in abridged summary form as per sub-regulation (1) shall carry a note that for unit holders of a scheme full Annual Report shall be available for inspection at the Head Office of the mutual fund and a copy thereof shall be made available to unitholder on payment of such nominal fees as may be specified by the mutual fund.
- (4) The asset management company shall display the link of the full scheme wise annual reports prominently on their website.

#### **Annual Report to be forwarded to the Board**

- 57.** Every mutual fund shall within four months from the date of closure of each financial year forward to the Board a copy of the Annual Report and other information including details of

investments and deposits held by the mutual fund so that the entire schemewise portfolio of the mutual funds is disclosed to the Board.

#### **Periodic and continual disclosures**

58. (1) The mutual fund, the asset management company, the trustee, custodian, sponsor of the mutual fund shall make such disclosures or submit such documents as they may be called upon to do so by the Board
- (2) No sale of units of any scheme of a mutual fund shall be made by the trustees or an asset management company unless accompanied by documents which contain information which is adequate for the investors to take an informed decision.

#### **Half-yearly Disclosures**

59. (1) A mutual fund and asset management company shall within one month from the close of each half year, that is on 31st March and on 30th September, host a soft copy of its unaudited financial results on their website:

**Provided that** the half-yearly unaudited report referred to in this sub-regulation shall contain details as specified in Twelfth Schedule and such other details as are necessary for the purpose of providing a true and fair view of the operations of the mutual fund.

- (2) A mutual fund and asset management company shall publish an advertisement disclosing the hosting of such financial results on their website, in atleast one English daily newspaper having nationwide circulation and in a newspaper having wide circulation published in the language of the region where the Head Office of the mutual fund is situated.

#### **Statement of Portfolio**

- 59A. A mutual fund shall before the expiry of ten days from the close of each halfyear (i.e., 31st March and 30th September), send to all unitholders a complete statement of its scheme portfolio, in the manner specified by the Board.

#### **Disclosures to the investors**

60. The trustee shall be bound to make such disclosures to the unitholders as are essential in order to keep them informed about any information which may have an adverse bearing on their investments.

## CHAPTER VIII



### INSPECTION AND AUDIT

#### Board's right to inspect and investigate

61. (1) The Board may appoint one or more persons as inspecting officer to undertake the inspection of the books of account, records, documents and infrastructure, systems and procedures or to investigate the affairs of a mutual fund, the trustees and asset management company for any of the following purposes, namely :—
- (a) to ensure that the books of account are being maintained by the mutual fund, the trustees and asset management company in the manner specified in these regulations;
  - (b) to ascertain whether the provisions of the Act and these regulations are being complied with by the mutual fund, the trustees and asset management company;
  - (c) to ascertain whether the systems, procedures and safeguards followed by the mutual fund are adequate;
  - (d) to ascertain whether the provisions of the Act or any rules or regulations made thereunder have been violated ;
  - (e) to investigate into the complaints received from the investors or any other person on any matter having a bearing on the activities of the mutual funds, trustees and asset management company;
  - (f) to suomotu ensure that the affairs of the mutual fund, trustees or asset management company are being conducted in a manner which is in the interest of the investors or the securities market.

#### Notice before inspection and investigation

62. (1) Before ordering an inspection or investigation under regulation 61 the Board shall give not less than ten days notice to the mutual fund, asset management company or trustees as the case may be.
- (2) Notwithstanding anything contained in sub-regulation (1), where the Board is satisfied that in the interest of the investors no such notice should be given, it may, by an order in writing direct that such inspection or investigation be taken up without such notice.
  - (3) During the course of inspection or investigation, the mutual fund, trustees or asset management company against whom the inspection or investigation is being carried out shall be bound to discharge his obligations as provided in regulation 63.

**Obligations on inspection and investigation**

63. (1) It shall be the duty of the mutual fund, trustees or asset management company whose affairs are being inspected or investigated, and of every director, officer and employee thereof, to produce to the inspecting officer such books, accounts, records, and other documents in its custody or control and furnish him such statements and information relating to the activities as mutual funds, trustees or asset management company, as the inspecting officer may require, within such reasonable period as the inspecting officer may specify.
- (2) The mutual fund, trustees or asset management company shall allow the inspecting officer to have a reasonable access to the premises occupied by it or by any other person on its behalf and also extend reasonable facility for examining any books, records, documents and computer data in the possession of the mutual fund, trustees and asset management company or such other person and also provide copies of documents or other materials which in the opinion of the inspecting officer are relevant for the purpose of the inspection.
- (3) The inspecting officer, in the course of inspection or investigation, shall be entitled to examine or record the statements of any director, officer, or employee of the mutual fund, trustees and asset management company.
- (4) It shall be the duty of every director, officer, or employee of the mutual fund, asset management company or trustee to give to the inspecting officer all assistance in connection with the inspection or investigation, which the inspecting officer may reasonably require.

**Submission of report to the Board**

64. The inspecting officer shall, as soon as possible, on completion of the inspection or investigation submit a report to the Board:

**Provided that** if directed to do so by the Board, he may submit an interim report.

**Action on inspection or investigation report**

65. The Board or the Chairman shall after consideration of inspection or investigation report take such action as the Board or Chairman may deem fit and appropriate including action under Chapter V of the Securities and Exchange Board of India (Intermediaries) Regulations, 2008.

**Appointment of auditor**

66. Without prejudice to the provisions of regulation 55, the Board shall have the power to appoint an auditor to inspect or investigate, as the case may be, into the books of account or the affairs of the mutual fund, trustee or asset management company:

**Provided that** the Auditor so appointed shall have the same powers of the inspecting officer as stated in regulation 61 and the obligation of the mutual fund, asset management company,

trustee, and their respective employees in regulation 63, shall be applicable to the investigation under this regulation.

#### Payment of inspection fees to the Board

67. The Board shall be entitled to recover such expenses including fees paid to the auditors as may be incurred by it for the purposes of inspecting the books of account, records and documents of the mutual fund, the trustees and the asset management company.

## CHAPTER IX



### PROCEDURE FOR ACTION IN CASE OF DEFAULT

#### Liability for action in case of default

68. A mutual fund which—
- (a) contravenes any of the provisions of the Act and these regulations;
  - (b) fails to furnish any information or furnishes wrong information relating to its activity as a mutual fund as required under these regulations;
  - (c) fails to submit periodical returns as required under these regulations;
  - (d) does not co-operate in any inquiry or inspection conducted by the Board;
  - (e) fails to comply with any directions of the Board issued under the provisions of the Act or the regulations;
  - (f) fails to resolve the complaints of the investors or fails to give a satisfactory reply to the Board in this behalf;
  - (g) indulges in unfair trade practices in securities.  
**Explanation—**For the purposes of this clause “unfair trade practices” has the same meaning as in the Securities and Exchange Board of India (Prohibition of Fraudulent and Unfair Trade Practices Relating to Securities Market) Regulations 2003 ;
  - (h) is guilty of misconduct or improper or unbusinesslike or unprofessional conduct which is not in accordance with the Code of Conduct specified in the Fifth Schedule;
  - (i) asset management company fails to maintain the net worth in accordance with the provisions of regulation 21;
  - (j) fails to pay any fees;
  - (k) violates the conditions of registration;
  - (l) mutual fund, asset management company or trustees of that mutual fund does not carry out its obligations as specified in these regulations, shall be dealt with in the

manner provided under Chapter V of the Securities and Exchange Board of India (Intermediaries) Regulations, 2008.

#### **69. to 74. Omitted**

#### **Action against intermediaries**

**75.** The Board may initiate action for suspension or cancellation of registration of an intermediary holding a certificate of registration under section 12 of the Act who fails to exercise due diligence or to comply with the obligations under these regulations:

**Provided that** no such certificate of registration shall be suspended or cancelled unless the procedure specified in regulations applicable to such intermediary is complied with.

#### **Action against mutual fund and/or asset management company**

**75A.** Without prejudice to regulation 68, a mutual fund and/or asset management company shall be liable for action under the applicable provisions of the Act and the Regulations framed thereunder, –

- (a) in case the advertisement issued is in contravention with the Advertisement Code specified in Sixth Schedule;
- (b) in case the valuation of securities is in contravention of the Principles of Fair Valuation specified in Eighth Schedule.

#### **Adjudication, etc.**

- 76.** (1) The Board may for the offences specified in sections 15A to 15E of the Act initiate action under section 15-I of the Act and in case of violation of any of the provisions of the Act or the regulations, initiate action under section 11, 11B or section 24 of the Act.
- (2) The Board may in addition to suspension or cancellation of certificate, order suspension of launching of any scheme of a mutual fund for a period not exceeding one year for violation of any of the provisions of these regulations after following procedure under this Chapter.
- (3) The Board may during the pendency of any proceeding of suspension or cancellation under this Chapter also order suspension for launching of any scheme not exceeding three months without following procedure under this Chapter :

**Provided that** no order shall be passed without giving an opportunity of hearing.

## CHAPTER X



### MISCELLANEOUS

#### Power of the Board to issue clarifications

77. In order to remove any difficulties in the application or interpretation of these regulations, the Board shall have the power to issue clarifications and guidelines in the form of notes or circulars which shall be binding on the sponsor, mutual funds, trustees, asset management companies and custodians.

#### Repeal and saving

78. (1) The Securities & Exchange Board of India (Mutual Funds) Regulations, 1993 are hereby repealed.
- (2) Notwithstanding such repeal:
- (a) anything done or any action taken or purported to have been done or taken, including registration or approval granted, fees collected, scheme announced, registration or approval, suspended or cancelled, any inquiry or investigation commenced under the said regulations, shall be deemed to have been done or taken under the corresponding provisions of these regulations ;
  - (b) any application made to the Board under the said regulations and pending before it shall be deemed to have been made under the corresponding provisions of these regulations ;
  - (c) any appeals preferred to the Central Government under the said regulations and pending before it shall be deemed to have been preferred under the corresponding provisions of these regulations.