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CHAPTER 1 - BASICS OF CAPITAL MARKET

1. What is the Difference between Primary and Secondary Market

Answer:

Following is the Difference between Primary and Secondary Market

Basis for comparison	Primary Market	Secondary Market
Meaning	The market place for issuing fresh securities	The market place for trading already issued securities
Objectives	To raise funds	Capital Appreciation
Scope	Includes issuance of new securities through Initial Public Offer (IPO)	Includes the further trading of securities already offered to the public
Another name	New issue market / IPO Market	After issue market / FPO Market
Purchasing of securities	Investors can purchase securities directly from the Company	Purchase and sale of securities is done by the investors among themselves
Financing	Primary market provides funds to new and old companies for their expansion and diversification	It does not provide funding to companies
Parties to transactions	Company and Investors	Investors among themselves
Major Intermediaries	Underwriters	Brokers
Price	Price as given in the offer document / red herring prospectus	Price fluctuates i.e. depends on demand and supply forces
Utilisation of fund	Fund gained from primary market becomes the capital of the company	Fund received from secondary market becomes income of investors

2. Briefly explain the need for regulators in capital market.

Answer:

NEED FOR REGULATORS IN CAPITAL MARKET:

1. In 1980's the development of stock markets attracted investments by individual shareholders. Once the stock markets started flourishing, there were many malpractices like non adherence to rules and regulation, price rigging, unofficial self-modulated merchant bankers, delayed delivery issues, etc. As a result, investors felt deceived and were losing trust in securities.
2. It was also this time when the Indian Financial Markets witnessed one of the biggest scams of the century – The Harshad Mehta Scam or other wise called as the Scam, 1992 which involved more than Rs. 4000 crores of market manipulations. The Indian Stock Market gradually crashed when the information came out
3. As a measure, the Government sensed an urgent need to regulate the smooth and systematic functioning of exchanges and thus resulting in formation of SEBI. Before formation of SEBI, controller of capital issues was responsible for regulation of capital markets. Indian Capital Markets are regulated and monitored by the Ministry of Finance, The Securities and Exchange Board of India and The Reserve Bank of India. The Ministry of Finance regulates through the Department of Economic Affairs - Capital Markets Division. The division is responsible for formulating the policies related to the orderly growth and development of the securities markets (i.e. share, debt and derivatives) as well as protecting the interest of the investors. In particular, it is responsible for :
 - institutional reforms in the securities markets,
 - building regulatory and market institutions,
 - strengthening investor protection mechanism, and
 - providing efficient legislative framework for securities markets.
4. Before 1992, many factors obstructed the expansion of equity trading. Fresh capital issues were controlled through the Capital Issues Control Act. Trading practices were not transparent, and there was a large amount of insider

trading. Recognizing the importance of increasing investor protection, several measures were enacted to improve the fairness of the capital market.

3. What are the rights of Equity shareholders under the Companies Act, 2013 and SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015?

Answer:

Equity share holders enjoy different rights as members under the Companies Act, 2013 such as:

- a) The right to vote on every resolution placed before the company – (Section 47)
- b) The rights to subscribe to shares at the time of further issue of capital by the company (Pre-emptive Right) – (Section 62)
- c) Right to appoint proxy to attend and vote at the meeting on his behalf – (Section 105)
- d) Right to receive copy of annual accounts of the company – (Section 136)
- e) Right to receive notice of the meeting of members – (Section 101)
- f) Right to inspection of various statutory registers maintained by the company – (Section 94)
- g) Right to requisition extraordinary general meeting of the company – (Section 100)

SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 also specifies that the listed entity shall seek to protect and facilitate the exercise of the following rights of shareholders:

- a) right to participate in, and to be sufficiently informed of, decisions concerning fundamental corporate changes,
- b) opportunity to participate effectively and vote in general shareholder meetings,
- c) Being informed of the rules, including voting procedures that govern general shareholder meetings,
- d) 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,
- e) Effective shareholder participation in key corporate governance decisions, such as the nomination and election of members of board of directors,
- f) exercise of ownership rights by all shareholders, including institutional investors,
- g) adequate mechanism to address the grievances of the shareholders,
- h) 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.

4. What are the kinds of Preference Shares?

Answer:

Following are the kinds of Preference Shares-

1. Cumulative Preference shares
2. Non-cumulative Preference Shares
3. Convertible preference shares
4. Non-Convertible Redeemable preference shares
5. Participating preference shares
6. Non Participating preference shares

CHAPTER 2 - SECONDARY MARKET IN INDIA

1. What are the objectives of Market Intermediaries?

Answer:

Following are the objectives of Market intermediaries:

- To smoothen the process of investment.
- To establish a link between the investors and the users of funds.
- Corporations and Governments do not market their securities directly to the investors. Instead, they hire the services of the market intermediaries to represent them to the investors.
- Investors, particularly small investors, find it difficult to make direct investment. A small investor desiring to invest may be able to diversify across issuers to reduce risk. He may not be equipped to assess and monitor the credit risk of issuers. Market intermediaries help investors to select investments by providing investment consultancy, market analysis and credit rating of investment instruments.
- In order to operate in secondary market, the investors have to transact through share brokers. Registrars and Share Transfer Agents, Custodians and Depositories Participants are capital market intermediaries that provide important infrastructure services for both primary and secondary markets.

2. Explain the regulatory framework of Emerge vis-à-vis main board.

Answer:

Following is the regulatory framework of Emerge vis-à-vis main board.

Particulars	Emerge	Main Board
Post-issue paid-up capital (face value)	Less than Rs 25 crore	Not less than Rs. 10 Crore
Minimum number of allottees in the IPO	50	1000
Observations on DRHP	By the Exchange	By SEBI
IPO underwriting	100% underwritten (15% on the books of the merchant banker)	Mandatory
Market capitalization/Issue size	No restriction	No restriction
IPO application size	Not less than Rs1,00,000	Rs 10,000-Rs 15,000
POST-ISSUE		
Reporting requirements (Financial accounts)	Half-yearly	Quarterly
Market making	Mandatory	Non-mandatory

3. What are the Requirements relating to registration for a Not for Profit Organization (292 F of SEBI ICDR Regulations 2018)?

Answer:

Following are the requirements relating to registration for a Not for Profit Organization (292 F of SEBI ICDR Regulations 2018)

1. A Not for Profit Organization shall mandatorily seek registration with a Social Stock Exchange before it raises funds through a Social Stock Exchange. However, a Not for Profit Organization may choose to register on a Social Stock Exchange and not raise funds through it.
2. The minimum requirements for registration of a Not for Profit Organization on a Social Stock Exchange shall be specified by the SEBI from time to time.
3. The Social Stock Exchange may specify the eligibility requirements for registration of a Not for Profit Organization in addition to the minimum requirements specified by the SEBI.

4. What is the process for opening an account for Know Your Client (KYC)?

Answer:

Following is the process for opening an account for Know Your Client (KYC):

- KYC is mandatory under the Prevention of Money Laundering Act, 2002 and Rules framed thereunder.
- While opening of Demat / Trading / Bank account, client have to submit officially valid documents (OVDs) as proof of identity and proof of address and these documents form a part of the KYC requirements.
- An investor can establish his identity and address through relevant supporting prescribed documents such as PAN card / Unique Identification (UID) (Aadhaar) / Passport / Voter ID card / Driving license, etc.
- Once the KYC form is submitted, a unique KYC Identification Number (KIN) is generated and communicated to the client by SMS/Email.
- KYC is a one-time process and is valid across all the intermediaries.

CHAPTER 3 - SECURITIES CONTRACTS (REGULATION) ACT, 1956

1. Define Securities under Securities Contracts (Regulation) Act, 1956.

Answer:

As per Section 2(h) of Securities Contracts (Regulation) Act, 1956, Securities include –

- i. shares, scrips, stocks, bonds, debentures, debenture stock or other marketable securities of a like nature in or of any incorporated company or a pooled investment vehicle or other body corporate;
- ii. derivative;
- iii. units or any other instrument issued by any Collective Investment Scheme to the Investors in such schemes;
- iv. security receipt as defined in clause (zg) of Section 2 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002;
- v. units or any other such instrument issued to the investors under any mutual fund scheme;
- vi. units or any other instrument issued by any pooled investment vehicle;
- vii. any certificate or instrument (by whatever name called) issued to an investor by any issuer being a special purpose distinct entity which possess any debt or receivable, including mortgage debt, assigned to such entity, and acknowledging beneficial interest of such investor in such debt or receivable, including mortgage debt, as the case may be;
- viii. government securities;
- ix. such other instruments as may be declared by the Central Government to be securities; and
- x. rights or interests in securities.

2. Define Contract under Securities Contracts (Regulation) Act, 1956.

Answer:

As per Section 2(a) of Securities Contracts (Regulation) Act, 1956, “Contract” means a contract for or relating to the purchase or sale of securities.

3. What are the penalties for offences under section 23 the Securities Contracts (Regulation) Act, 1956?

Answer:

The Securities Contracts (Regulation) Act, 1956 prescribes various penalties against persons who might be found guilty of offences under section 23 the Act. They are as follows:

Section	Contravention	Penalty
23A(a)	Any person who fails to furnish any information, document, books, returns or report to the recognised stock exchange or to the SEBI, fails to furnish the same within the time specified therefor in the listing agreement or conditions or bye-laws of the recognised stock exchange or the Act or rules made thereunder, or who furnishes false, incorrect or incomplete information, document, books return or report	Fine of at least 1 lakh rupees but may extend to 1 lakh rupees per day during which such failure continues, subject to a maximum of 1 crore rupees
23A(b)	Any person who fails to maintain books of account or records, as per the listing agreement or conditions, or bye-laws of a recognised stock exchange	Fine of at least 1 lakh rupees but may extend to 1 lakh rupees per day during which such failure continues, subject to a maximum of 1 crore rupees
23B	Any person who fails to enter into an agreement with clients	Fine of at least 1 lakh rupees but may extend to 1 lakh rupees per day during which such failure continues, subject to a maximum of 1 crore rupees

23C	Failure by a stock broker or sub-broker or a listed company or proposed listed company to redress investors' grievances within the time stipulated by SEBI or recognised stock exchange	Fine of at least 1 lakh rupees but may extend to 1 lakh rupees per day during which such failure continues, subject to a maximum of 1 crore rupees
23D	Failure to segregate securities or money of client or clients or using the securities or money of client for self-use or for any other client	At least 1 lakh rupees but may extend to rupees 1 crore
23E	Failure to comply with the provisions of listing conditions or delisting conditions or grounds or breach thereof is committed, by a company or a person managing collective investment scheme or mutual fund or real estate investment trust or infrastructure investment trust or alternative investment fund.	Liable for at least 5 lakh rupees which may extend to rupees 25 crores
23F	If any issuer make an excess dematerialisation or delivery of unlisted securities	At least 5 lakh rupees which may extend to 25 crores rupees
23G	Failure by recognised stock exchange to furnish periodical return or furnish false, incorrect or incomplete periodical returns to SEBI or fails or neglects to make or amend its rules or bye-laws as directed by SEBI or fails to comply with the directions of SEBI	At least 5 lakh rupees which may extend to 25 crores rupees
23GA	Where a stock exchange / a clearing corporation fails to conduct its business with its members /any issuer/ its agent/ any person associated with the securities markets in a manner not in accordance with the rules/ regulations made by the SEBI and the directions issued by it under this Act	Penalty at least 5 crore rupees which may extend to 25 crore rupees or three times the amount of gains made out of such failure, whichever is higher.
23H	Whoever fails to comply with any provision of this Act, the rules of articles or bye-laws or the regulations of recognised stock exchange or directions issued by SEBI for which no separate penalty has been provided	At least 1 lakh rupees which may extend to rupees 1 crore

4. What are the provisions of settlement of administrative and civil proceedings under Securities Contracts (Regulation) Act, 1956.

Answer:

Section 23JA of Securities Contracts (Regulation) Act, 1956 states that any person, against whom any proceedings have been initiated or may be initiated under section 12A or section 23-I, may file an application in writing to SEBI proposing for settlement of the proceedings initiated or to be initiated for the alleged defaults. The SEBI may, after taking into consideration the nature, gravity and impact of defaults, agree to the proposal for settlement, on payment of such sum by the defaulter or on such other terms as may be determined by the SEBI in accordance with the regulations made under the SEBI Act, 1992. For the purpose of settlement under this section, the procedure as specified by the SEBI under the SEBI Act, 1992 shall apply.

No appeal shall lie under section 23L against any order passed by the SEBI or adjudicating officer, as the case may be, under this section. All settlement amounts, excluding the disgorgement amount and legal costs, realised under this Act shall be credited to the Consolidated Fund of India

5. What are the conditions precedent to submission of application for listing by Stock Exchange?

Answer:

Sub-rule (3) of Rule 19 provides that company while applying for listing shall, as conditions precedent, undertake inter alia –

- a) (i) that letters of allotment will be issued simultaneously and that, in the event of its being impossible to issue letters of regret at the same time, a notice to that effect will be inserted in the press so that it will appear on the morning after the letters of allotment have been posted.
- (ii) that letters of right will be issued simultaneously.
- (iii) that letters of allotment, acceptance or rights will be serially numbered, printed on good quality paper and, examined and signed by a responsible officer of the company and that whenever possible, they will contain the distinctive numbers of the securities to which they relate.
- (iv) that letters of allotment and renounceable letters of right will contain a proviso for splitting and that, when so required by the exchange, the form of renunciation will be printed on the back of or attached to the letters of allotment and letters of right.
- (v) that letters of allotment and letters of right will state how the next payment of interest or dividend on the securities will be calculated.
- b) to issue, when so required, receipts for all securities deposited with it whether for registration, subdivision, exchange or for other purposes; and not to charge any fees for registration of transfers, for sub-division and consolidation of certificate and for sub-division of letters of allotment, renounceable letters of right, and split consolidation, renewal and transfer receipts into denominations of the market unit of trading;
- (bb) to issue, when so required, consolidation and renewal certificates in denominations of the market unit of trading, to split certificates, letters of allotment, letters of right, and transfer, renewal, consolidation and split receipts into smaller units, to split call notices, issue duplicates thereof and not require any discharge on call receipts and to accept the discharge of members of stock exchange on split, consolidation and renewal receipts as good and sufficient without insisting on the discharge of the registered holders;
- c) when documents are lodged for sub-division or consolidation (or renewal) through the clearing house of the exchange;
 - i. to accept the discharge of an official of the stock exchange clearing house on the company's split receipts and (consolidation receipts and renewal receipts) as good and sufficient discharge without insisting on the discharge of the registered holders; and
 - ii. to verify when the company is unable to issue certificates or split receipt or (consolidation receipts or renewal receipts) immediately on lodgement whether the discharge of the registered holders, on the documents lodged for sub-division or consolidation (or renewal) and their signatures on the relative transfers are in order.
- d) on production of the necessary documents by shareholders or by members of the exchange, to make on transfers an endorsement to the effect that the power of attorney or probate or letters of administration or death certificate or certificate of the Controller of Estate Duty or similar other document has been duly exhibited to and registered by the company;
- e) to issue certificates in respect of shares or debentures lodged for transfer within a period of one month of the date of lodgement of transfer and to issue balance certificates within the same period where the transfer is accompanied by a larger certificate;
- f) to advise the stock exchange of the date of the board meeting at which the declaration or recommendation of a dividend (or the issue or right or bonus share) will be considered;
- g) to recommend or declare all dividends and/or cash bonuses at least five days before the commencement of the closure of its transfer books or the record date fixed for the purpose and so advise the stock exchange in writing of all dividends and/or cash bonuses recommended or declared immediately after a meeting of the board of the company has been held to finalise the same;
- h) to notify the stock exchange of any material change in the general character or nature of the company's business;
- i) to notify the stock exchange of any change –
 - i. in the company's directorate by death, resignation, removal or otherwise,
 - ii. of managing director, managing agent or secretaries and treasurers,
 - iii. of auditors appointed to audit the books and accounts of the company.
- j) to forward to the stock exchange copies of statutory and annual reports and audited accounts as soon as issued, including directors' reports;

- k) to forward to the stock exchange as soon as they are issued, copies of all other notices and circulars sent to the shareholders including proceedings of ordinary and extraordinary general meetings of the company and to file with the stock exchange certified copies of resolutions of the company as soon as such resolutions become effective;
- l) to notify the stock exchange prior to intimating the shareholders, of any new issue of securities whether by way of right, privilege, bonus or otherwise and the manner in which it is proposed to offer or allot the same;
- m) to notify the stock exchange in the event of re-issue of any forfeited securities or the issue of securities held in reserve for future issue;
- n) to notify the stock exchange of any other alteration of capital including calls;
- o) to close the transfer books only for the purpose of declaration of dividend or issue of right or bonus shares or for such other purposes as the stock exchange may agree and to give notice to the stock exchange as many days in advance as the exchange may from time to time reasonably prescribe, stating the dates of closure of its transfer books (or, when the transfer books are not to be closed, the date fixed for taking a record of its shareholders or debenture holders) and specifying the purpose or purposes for which the transfer books are to be closed (or the record is to be taken) and in the case of a right or bonus issue to so close the transfer books or fix a record date only after the sanctions of the competent authority subject to which the issue is proposed to be made have been duly obtained, unless the exchange agrees otherwise;
- p) to forward to the stock exchange an annual return immediately after each annual general meeting of at least ten principal holders of each class of security of the company along with particulars as to the number of shares or debentures held by, and address of, each such holder;
- q) to grant to shareholders the right of renunciation in all cases of issue of rights, privileges and benefits and to allow them reasonable time not being less than four weeks within which to record, exercise, or renounce such rights, privileges and benefits, and to issue, where necessary, coupons or fractional certificates or provide for the payment of the equivalent of the value of the fractional right in cash unless the company in general meeting or the stock exchange agrees otherwise;
- r) to promptly notify the stock exchange—
 - i. of any action which will result in the redemption, cancellation or retirement in whole or in part of any securities listed on the exchange;
 - ii. of the intention to make a drawing of such securities, intimating at the same time the date of the drawing and the period of the closing of the transfer books (or the date of the striking of the balance) for the drawing;
 - iii. of the amount of securities outstanding after any drawing has been made.
- s) to intimate the stock exchange any other information necessary to enable the shareholders to appraise the position of the company and to avoid the establishment of a false market in the shares of the company;
- t) that in the event of the application for listing being granted, such listing shall be subject to the rules and bye-laws of the exchange in force from time to time and that the company will comply within a reasonable time, with such further listing requirements as may be promulgated by the exchange as a general condition for new listings.

CHAPTER 4 - SECURITIES AND EXCHANGE BOARD OF INDIA

1. Explain the power of SEBI to make regulations as per SEBI Act, 1992.

Answer:

As per Section 30 of SEBI Act, 1992, the SEBI may, by notification, make regulations consistent with this Act and the rules made thereunder to carry out the purposes of this Act. In particular, and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following matters, namely :—

- the times and places of meetings of the Board and the procedure to be followed at such meetings including quorum necessary for the transaction of business;
- the terms and other conditions of service of officers and employees of the SEBI;
- the matters relating to issue of capital, transfer of securities and other matters incidental thereto and the manner in which such matters shall be disclosed by the companies under section 11A;
- the utilisation of the amount credited under sub-section (5) of section 11;
- the fulfilment of other conditions relating to collective investment scheme under subsection (2A) of section 11AA;
- the conditions subject to which certificate of registration is to be issued, the amount of fee to be paid for certificate of registration and the manner of suspension or cancellation of certificate of registration under section 12;
- the terms determined by the SEBI for settlement of proceedings under sub-section (2) and the procedure for conducting of settlement proceedings under sub-section (3) of section 15JB;
- any other matter which is required to be, or may be, specified by regulations or in respect of which provision is to be made by regulations.

2. Explain the powers of SEBI not to apply to International Financial Services Centre as per SEBI Act, 1992.

Answer:

Section 28C provides that the powers exercisable by the SEBI under this Act,—

- a) shall not extend to an International Financial Services Centre set up under sub-section (1) of section 18 of the Special Economic Zones Act, 2005;
- b) shall be exercisable by the International Financial Services Centres Authority established under subsection (1) of section 4 of the International Financial Services Centres Authority Act, 2019, in so far as regulation of financial products, financial services and financial institutions that are permitted in the International Financial Services Centres are concerned.

3. What are the provisions of registration of intermediaries under SEBI Act, 1992

Answer:

- Chapter V of the Act provides for registration of various intermediaries such as stock broker, sub-broker, share transfer agents etc. Section 12(1) of the Act provides that the following intermediaries are required to obtain a registration certificate from the SEBI to buy, sell or deal in securities :

• Stock-Broker • Sub-Broker • Share Transfer Agent • Banker to an issue • Trustee of Trust Deed	• Registrar to an Issue • Merchant Banker • Underwriter • Portfolio Manager • Investment Adviser • Depository	• Depository Participant • Custodian of Securities • Foreign Institutional Investor • Credit Rating Agency • Such other intermediary.
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- A person shall not sponsor or cause to be sponsored or carry on or cause to be carried on any venture capital funds or collective investment schemes including mutual funds, unless he obtains a certificate of registration from the SEBI in accordance with the regulations.
- It is clarified by the SEBI that a collective investment scheme or mutual fund shall not include any unit linked insurance policy or scrips or any such instrument or unit, by whatever name called, which provides a component of investment besides the component of insurance issued by an insurer.

- A person shall not sponsor or cause to be sponsored or carry on or cause to be carried on the activity of an alternative investment fund or a business trust as defined in clause (13A) of section 2 of the Income-tax Act, 1961, unless a certificate of registration is granted by the SEBI in accordance with the regulations made under this Act.
- **Manner of application for registration:** Every application for registration would in such manner and on payment of such fees as may be determined by the SEBI Regulations.
- **Suspension/cancellation of a certificate of registration :** The SEBI may, by order, suspend or cancel a certificate of registration in such manner as may be determined by the SEBI Regulations. However, no such order shall be made unless the person concerned has been given a reasonable opportunity of being heard.

4. What are the powers of SAT?

Answer:

The Securities Appellate Tribunals shall have, for the purposes of discharging their functions under this Act, the same powers as are vested in a Civil Court under the Code of Civil Procedure, 1908, while trying a suit, in respect of the following matters, namely:

- a) summoning and enforcing the attendance of any person and examining him on oath;
- b) requiring the discovery and production of documents;
- c) receiving evidence on affidavits;
- d) issuing commissions for the examination of witnesses or documents;
- e) reviewing its decisions;
- f) dismissing an application for default or deciding it ex parte;
- g) setting aside any order of dismissal of any application for default or any order passed by it ex parte;
- h) any other matter which may be prescribed.

5. Which complaints will be first handled by stock exchanges against certain listed companies?

Answer:

From September 01, 2020 onwards, stock exchanges are the first recourse for certain categories of complaints against listed companies as provided below:

1. Non updation of address /Signature or Corrections etc
2. Non-receipt of Bonus
3. Non receipt of Dividend
4. Non receipt duplicate debt securities certificate
5. Non-receipt of duplicate share certificate
6. Non receipt of fractional entitlement
7. Non receipt of interest for delay in dividend
8. Non receipt of interest for delay in payment of interest on debt security
9. Non receipt of interest for delay in redemption proceeds of debt security
10. Non receipt of interest for delay in refunds
11. Non receipt of interest on securities
12. Non receipt of redemption amount of debt securities
13. Non receipt of refund in Public/ Rights issue
14. Non receipt of Rights Issue form
15. Non receipt of securities after conversion/ endorsement/ consolidation/ splitting
16. Non receipt of securities after transfer
17. Non receipt of securities in public/ rights issue
18. Non receipt of shares after conversion/ endorsement/ consolidation/ splitting
19. Non receipt of shares after transfer
20. Non receipt of shares after transmission
21. Non receipt of shares in public/ rights issue (including allotment letter)
22. Non-receipt of interest for delay in dispatch/credit of securities

23. Receipt of refund/ dividend in physical mode instead of electronic mode
24. Receipt of shares in physical mode instead of electronic mode
25. Demat/Remat
26. Complaints of any other nature as may be informed from time to time.

CHAPTER 5 - LAWS GOVERNING TO DEPOSITORIES AND DEPOSITORY PARTICIPANTS

1. Give a brief overview of depository system.

Answer:

- Depositories are institutions that hold securities of investors in dematerialized / electronic form and provide demat services to the investors through their Depository Participants (DP). The legal framework for depository system in the Depositories Act, 1996 provides for the establishment of multiple depositories. Anybody to be eligible for providing depository services must be formed and registered as a company under the Companies Act, 2013 and seek registration with SEBI and obtain a Certificate of Commencement of Business from the SEBI on fulfillment of the prescribed conditions.
- There are two depositories in our country namely, National Securities Depository Limited (NSDL) and Central Depository Services (India) Limited (CDSL). Under each Depository, there are registered Depository Participants (DPs), which provide various services to the investors like opening and maintaining of a Demat account, dematerialization of shares, etc
- A depository is an organization which holds securities (like shares, debentures, bonds, government securities, mutual fund units etc.) of investors in electronic form at the request of the investors through a registered depository participant. It also provides services related to transactions in securities.
- A Depository is an organization like a Central Bank where the securities of a shareholder are held in the electronic form at the request of the shareholder through the medium of a Depository Participant. To utilize the services offered by a Depository, the investor has to open an account with the Depository through a Depository Participant.
- In the depository system, share certificates belonging to the investors are to be dematerialized and their names are required to be entered in the records of depository as beneficial owners. Consequent to these changes, the investors' names in the companies' register are replaced by the name of depository as the registered owner of the securities.
- The depository, however, does not have any voting rights or other economic rights in respect of the shares as a registered owner. The beneficial owner continues to enjoy all the rights and benefits and is subject to all the liabilities in respect of the securities held by a depository.
- In the Depository mode, corporate actions such as IPOs, rights, conversions, bonus, mergers/ amalgamations, subdivisions & consolidations are carried out without the movement of paper, saving both cost & time. Information of beneficiary owners is readily available. The issuer gets information on changes in shareholding pattern on a regular basis, which enables the issuer to efficiently monitor the changes in shareholdings.
- The Depository system links the issuing corporates, Depository Participants (DPs), the Depositories and clearing corporations of stock exchanges. This network facilitates holding of securities in the soft form and effects transfers by means of account transfers.
- Under the provisions of the Depositories Act, these Depositories provide various services to investors and other Participants in the capital market, such as, clearing members, stock exchanges, investment institutions, banks and issuing corporates. These include basic facilities like account opening, dematerialization, settlement of trades and advanced facilities like pledging, distribution of non-cash corporate actions, distribution of securities to allottees in case of public issues, etc.
- A depository cannot act as a depository unless it obtains a certificate of commencement of business from the SEBI.
- To utilize the services of a depository, the investor has to open an account with the depository through a participant, similar to the opening of an account with any of the bank branches to utilize services of that bank. Registration of the depository is required under the SEBI (Depositories and Participants) Regulations, 2018 and is a pre-condition to the functioning of the depository. Depository and depository participant both are regulated by the SEBI.

2. Who can be a DP?**Answer:**

Public financial institutions, scheduled commercial banks, foreign banks operating in India with the approval of the Reserve Bank of India, state financial corporations, custodians, stock-brokers, clearing corporations / clearing houses, NBFCs and registrar to an issue or share transfer agent complying with the requirements prescribed by SEBI can be registered as DP.

3. Can an investor, already having a demat account; open another account with any other Depository Participant (DP)?**Answer:**

Yes, the investor has a choice to open another demat account with any DP

4. How would Mr. X get Bonus Shares if he holds shares in Demat Form?**Answer:**

The concerned company obtains the details of beneficiary holders and their holdings from Depository (NSDL or CDSL) as on the record date. The number of shares he is entitled for, are credited to his demat account by the company / its RTA.

5. What type of instruments are available for demat at Depository?**Answer:**

All types of equity/ debt instruments viz. equity shares, preference Shares, partly paid shares, bonds, debentures, commercial papers, certificates of deposit, government securities (G-SEC) etc. irrespective of whether these instruments are listed / unlisted / privately placed can be dematerialized with depository, if they have been admitted with the depository.

6. Briefly explain the power of central government to make rules.**Answer:**

Section 24 of the Act provides that the Central Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Act. In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely :—

- the manner of inquiry under sub-section (1) of section 19H;
- the time within which an appeal may be preferred under sub-section (1) of section 23;
- the form in which an appeal may be preferred under sub-section (3) of section 23 and the fees payable in respect of such appeal;
- the procedure for disposing of an appeal under sub-section (4) of section 23;
- the form in which an appeal may be filed before the Securities Appellate Tribunal under section 23A and the fees payable in respect of such appeal.

In exercise of the powers conferred, the Central Government makes the Depositories (Procedure for Holding enquiry and imposing penalties by adjudicating officer) Rules, 2005 for holding inquiry for the purpose of imposing penalty under sections 19A to 19G of the Depositories Act.

CHAPTER 6 - SECURITIES MARKET INTERMEDIARIES

1. What are the general obligations of intermediaries?

Answer:

Following are the general obligations of intermediaries

1. An intermediary shall provide the SEBI with a certificate of its compliance officer on the 1st April of each year certifying:
 - a) the compliance by the intermediary with all the obligations, responsibilities and the fulfillment of the eligibility criteria on a continuous basis under these regulations and the relevant regulations;
 - b) that all disclosures made in Form A and under the relevant regulations are true and complete.
2. Each intermediary shall prominently display a photocopy of the certificate at all its offices including branch offices.
3. The intermediary shall also prominently display the name and contact details of the compliance officer to whom complaint may be made in the event of any investor grievance.
4. The intermediary shall maintain such books, accounts and records as specified in the relevant regulations.

2. What are the general obligations and responsibilities of Merchant Bankers?

Answer:

Following are the general obligations and responsibilities of Merchant Bankers:

- Every merchant banker shall abide by the Code of Conduct.
- No merchant banker, shall carry on any business other than that in the securities market.
- Every merchant banker shall keep and maintain the books of account, records and documents.
- Every merchant banker shall furnish to the SEBI halfyearly unaudited financial results.
- The merchant banker shall preserve the books of account and other records and documents for a minimum period of five years.
- Every merchant banker acting as an underwriter shall enter into an agreement with each body corporate on whose behalf it is acting as an underwriter.
- Every merchant banker shall appoint a compliance officer who shall be responsible for monitoring the compliance of the Act, rules and regulations, notifications, guidelines, instructions, etc., issued by the SEBI or the Central Government and for redressal of investors' grievances.

3. What are the general obligations and responsibilities of Registrars and Share Transfer Agents?

Answer:

Following are the general obligations and responsibilities of Registrars and Share Transfer Agents:

- Every registrar to an issue and share transfer agent holding a certificate shall at all times abide by the Code of Conduct.
- Registrar to an issue shall not to act as such registrar for any issue of securities in case he or it is an associate of the body corporate issuing the securities.
- Every registrar to an issue and share transfer agent being a body corporate shall keep and maintain proper books of accounts and records.
- The registrar to an issue or share transfer agent shall preserve the books of accounts and other records and documents maintained for a minimum period of eight years.
- Every registrar to an issue and share transfer agent shall appoint a compliance officer who shall be responsible for monitoring the compliance of the Act, rules and regulations, notifications, guidelines, instructions etc. issued by the SEBI or the Central Government and for redressal of investors' grievances.

4. What are the general obligations and responsibilities of Bankers to an issue?

Answer:

Following are the general obligations and responsibilities of Bankers to an issue:

- Every banker to an issue shall maintain books of account, records and the documents. Every banker to an issue shall furnish the information to the SEBI when required.
- Every banker to an issue shall enter into an agreement with the body corporate for whom it is acting as banker to an issue.
- Every banker to an issue shall inform the SEBI forthwith if any disciplinary action is taken by the Reserve Bank against the banker to an issue only in relation to issue payment work.
- Every banker to an issue shall abide by the code of conduct.
- Every banker to an issue shall appoint a compliance officer who shall be responsible for monitoring the compliance of the Act, rules and regulations, notifications, guidelines, instructions, etc., issued by the SEBI or the Central Government and for redressal of investors' grievances.

5. What are the general obligations and responsibilities of Stock Brokers?

Answer:

Following are the general obligations and responsibilities of Stock Brokers:

- Every Stock Broker shall keep and maintain the proper books of account, records and documents.
- Every stock broker shall preserve the books of account and other records maintained for a minimum period of five years.
- Every Stock Broker acting as an underwriter shall not derive any direct or indirect benefit from underwriting the issue other than the commission or brokerage payable under an agreement for underwriting.
- Every stock broker shall appoint a compliance officer who shall be responsible for monitoring the compliance of the Act, rules and regulations, notifications, guidelines, instructions, etc., issued by the SEBI or the Central Government and for redressal of investors' grievances.

6. What are the general obligations and responsibilities of portfolio managers?

Answer:

Following are the general obligations and responsibilities of portfolio managers:

- Every portfolio manager shall abide by the Code of Conduct as specified Schedule III of SEBI (Portfolio Managers) Regulations, 2020.
- The portfolio manager shall, before taking up an assignment of management of funds and portfolio on behalf of a client, enter into an agreement in writing with such client that clearly defines the inter se relationship and sets out their mutual rights, liabilities and obligations relating to management of portfolio containing the details as specified in Schedule IV.
- The discretionary portfolio manager shall individually and independently manage the funds of each client in accordance with the needs of the client, in a manner which does not partake character of a Mutual Fund, whereas the non-discretionary portfolio manager shall manage the funds in accordance with the directions of the client.
- The portfolio manager shall not accept from the client, funds or securities worth less than fifty lakh rupees. However the minimum investment amount per client shall be applicable for new clients and fresh investments by existing clients.
- The portfolio manager shall act in a fiduciary capacity with regard to the client's funds.
- The portfolio manager shall segregate each client's holding in securities in separate accounts
- The portfolio manager shall keep the funds of all clients in a separate account to be maintained by it in a Scheduled Commercial Bank.
- The portfolio manager shall transact in securities within the limitation placed by the client himself with regard to dealing in securities under the provisions of the Reserve Bank of India Act, 1934.
- The portfolio manager shall not derive any direct or indirect benefit out of the client's funds or securities.
- The portfolio manager shall not borrow funds or securities on behalf of the client.
- The portfolio manager shall not lend securities held on behalf of the clients to a third person except as provided under these regulations.

- The portfolio manager shall ensure proper and timely handling of complaints from his clients and take appropriate action immediately.
- The portfolio manager shall ensure that any person or entity involved in the distribution of its services is carrying out the distribution activities in compliance with these regulations and circulars issued thereunder from time to time.
- Every portfolio manager shall keep and maintain the books of accounts, records and documents as prescribed.
- Every portfolio manager shall furnish to the SEBI a net worth certificate issued by a chartered accountant as and when required by the SEBI.
- The portfolio manager shall preserve the books of account and other records and documents mentioned under this chapter for a minimum period of five years.
- Every portfolio manager shall appoint 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.

7. What are the general obligations and responsibilities of Custodians?

Answer:

Following are the general obligations and responsibilities of Custodians:

- Every custodian shall abide by the Code of Conduct.
- Where a custodian is carrying on any activity besides that of acting as custodian then the activities relating to his business as custodian shall be separate and segregated from all other activities.
- Every custodian shall have adequate mechanisms for the purposes of reviewing, monitoring, evaluating and inspection the custodian's controls, systems, procedures and safeguards.
- No custodian shall assign or delegate its functions as a custodian to any other person unless such person is a custodian.
- Every custodian shall open a separate custody account for each client, in the name of the client whose securities are in its custody and the assets of one client shall not be mixed with those of another client.
- Every custodian shall enter into an agreement with each client on whose behalf it is acting as custodian.
- Every custodian shall have adequate internal controls to prevent any manipulation of records and documents including audits for securities, goods and rights or entitlements arising from the securities and goods held by it on behalf of its client. Every custodian shall maintain the records and documents.
- Every custodian shall appoint a compliance officer who shall be responsible for monitoring the compliance of the Act, rules and regulations, notifications, guidelines, instructions, etc., issued by the SEBI or the Central Government and for redressal of investors' grievances.
- Where any information is called for by the SEBI, it shall be the duty of the custodian to furnish such information within such reasonable period as the SEBI may specify.

8. What are the general obligations and responsibilities of investment adviser?

Answer:

Following are the general obligations and responsibilities of investment adviser:

- An investment adviser shall act in a fiduciary capacity towards its clients and shall disclose all conflicts of interests as and when they arise.
- An investment adviser shall not receive any consideration by way of remuneration or compensation or in any other form from any person other than the client being advised, in respect of the underlying products or securities for which advice is provided.
- An investment adviser shall maintain an arms-length relationship between its activities as an investment adviser and other activities.
- An investment adviser which is also engaged in activities other than investment advisory services shall ensure that its investment advisory services are clearly segregated from all its other activities, in the manner as prescribed hereunder.

- An investment adviser shall ensure that in case of any conflict of interest of the investment advisory activities with other activities, such conflict of interest shall be disclosed to the client.
- An investment adviser shall not divulge any confidential information about its client, which has come to its knowledge, without taking prior permission of its clients, except where such disclosures are required to be made in compliance with any law for the time being in force.
- An investment advisor shall not enter into transactions on its own account which is contrary to its advice given to clients for a period of fifteen days from the day of such advice.
- An investment advisor shall follow Know Your Client procedure as specified by the SEBI from time to time.
- An investment adviser shall abide by Code of Conduct.
- An investment adviser shall not act on its own account, knowingly to sell securities or investment products to or purchase securities or investment product from a client.
- In case of change in control of the investment adviser, prior approval from the SEBI shall be taken.
- Investment advisers shall furnish to the SEBI information and reports as may be specified by the SEBI from time to time.
- It shall be the responsibility of the investment adviser to ensure compliance with the certification and qualification requirements.

9. What are the general obligations and responsibilities of Research analysts?

Answer:

Following are the general obligations and responsibilities of Research analysts:

- Research analyst or research entity shall maintain an arms-length relationship between its research activity and other activities.
- Research analyst or research entity shall abide by Code of Conduct.
- In case of change in control of the research analyst or research entity, prior approval from the SEBI shall be taken. | Research analyst or research entity shall furnish to the SEBI information and reports as may be specified by the SEBI from time to time.
- It shall be the responsibility of the research analyst or research entity to ensure that its employees or partners, as may be applicable, comply with the certification and qualification requirements at all times.
- Research analyst or research entity shall maintain the records.
- All records shall be maintained either in physical or electronic form and preserved for a minimum period of five years.
- Research analyst or research entity shall conduct annual audit in respect of compliance with these regulations from a member of Institute of Chartered Accountants of India or Institute of Company Secretaries of India.
- Research analyst or research entity which is a body corporate or limited liability partnership firm shall appoint a compliance officer who shall be responsible for monitoring the compliance of the provisions of the Act, these regulations and circulars issued by the SEBI.

10. What are the general obligations and responsibilities of Credit Rating Agencies?

Answer:

Following are the general obligations and responsibilities of credit rating agencies:

- Every credit rating agency shall abide by the Code of Conduct.
- Every credit rating agency shall enter into a written agreement with each client whose securities it proposes to rate.
- Every credit rating agency shall, during the lifetime of securities rated by it continuously monitor the rating of such securities.
- Every credit rating agency shall disseminate information regarding newly assigned ratings, and changes in earlier rating promptly through press releases and websites, and, in the case of securities issued by listed companies, such information shall also be provided simultaneously to the concerned regional stock exchange and to all the stock exchanges where the said securities are listed.

- Every credit rating agency shall disclose Rating Definitions and Rationale.
- Where any information is called for by the SEBI from a credit rating agency for the purposes of these regulations, including any report relating to its activities, the credit rating agency shall furnish such information to the SEBI.
- Every credit rating agency shall comply with such guidelines, directives, circulars and instructions as may be issued by the SEBI from time to time.
- Every credit rating agency shall appoint a compliance officer who shall be responsible for monitoring the compliance of the Act, rules and regulations, notifications, guidelines, instructions etc. issued by the SEBI or the Central Government.
- Every credit rating agency shall keep and maintain books of accounts, records and documents for a minimum period of five years.

11. What are the general obligations and responsibilities of foreign portfolio investor?

Answer:

Following are the general obligations and responsibilities of foreign portfolio investors:

- A foreign portfolio investor shall, at all times, abide by the code of conduct;
- comply with the provisions of these regulations, as far as they may apply, circulars issued thereunder and any other terms and conditions specified by the SEBI from time to time;
- forthwith inform the SEBI and designated depository participant in writing, if any information or particulars previously submitted to the SEBI or designated depository participant are found to be false or misleading, in any material respect;
- forthwith inform the SEBI and designated depository participant in writing, if there is any material change in the information including any direct or indirect change in its structure or ownership or control, previously furnished by him to the SEBI or designated depository participant;
- as and when required by the SEBI or any other Government agency in India, submit any information, record or documents in relation to its activities as a foreign portfolio investor;
- forthwith inform the SEBI and the designated depository participant, in case of any penalty, pending litigation or proceedings, findings of inspections or investigations for which action may have been taken or is in the process of being taken by an overseas regulator against it
- obtain a Permanent Account Number from the Income Tax Department;
- be a fit and proper person based on the criteria specified in Schedule II of the Securities and Exchange Board of India (Intermediaries) Regulations, 2008;
- undertake necessary KYC on its shareholders/ investors in accordance with the rules applicable to it in the jurisdiction where it is organised;
- provide any additional information or documents;
- ensure that securities held by foreign portfolio investors are free from all encumbrances.

CHAPTER 7 - INTERNATIONAL FINANCIAL SERVICES CENTRES AUTHORITY (IFSCA)

1. Specify the Regulators and respective Acts mentioned under First Schedule of the IFSCA Act, 2019

Answer:

The Regulators and respective Acts mentioned under First Schedule of the IFSCA Act, 2019 are as follows: -

S. No.	Domestic Regulator	Statute administered
1	The Reserve Bank of India constituted under the Reserve Bank of India Act, 1934 (2 of 1934).	1. The Reserve Bank of India Act, 1934; 2. The Banking Regulation Act, 1949; 3. The Deposit Insurance and Credit Guarantee Corporation Act, 1961; 4. The Foreign Exchange Management Act, 1999; 5. The Credit Information Companies (Regulation) Act, 2005; 6. The Government Securities Act, 2006; 7. The Payment and Settlement Systems Act, 2007.
2	The Securities and Exchange Board of India established under the Securities and Exchange Board of India.	1. The Securities Contracts (Regulation) Act, 1956 (42 of 1956); 2. The Securities and Exchange Board of Act, 1992 (15 of 1992); 3. The Depositories Act, 1996 (22 of 1996).
3	The Insurance Regulatory and Development Authority of India constituted under the Insurance Regulatory and Development Authority Act, 1999 (41 of 1999).	1. The Insurance Act, 1938 (4 of 1938); 2. The General Insurance Business Insurance Regulatory and (Nationalization) Act, 1972; 3. The Insurance Regulatory and Development Authority Act, 1999 (41 of 1999).
4	The Pension Fund Regulatory and Development Authority constituted under the Pension Fund Regulatory and Development Authority Act, 2013 (23 of 2013).	The Pension Fund Regulatory and Development Authority Act, 2013.

2. What are the Benefits of IFSC for India?

Answer:

The establishment of GIFT-IFSC will boost the growth of country and GIFT-IFSC is an important gateway to connect India with global opportunities.

Following are benefits of having an IFSC in India: -

- 1. Internationalization of Rupee:** Pathway for calibrated approach to Internationalization of domestic currency
- 2. Gateway for inbound & outbound Capital flows:** IFSC to serve as a captive centre to procure our own requirement for International Financial Services E.g. Banking, Capital Markets, Insurance etc.
- 3. Employment Generation:** Concentration of financial Institutions In IFSC to create middle and high-end job opportunities for professionals (Global In-House Centres, Treasury)
- 4. Regional Financial Integration:** IFSC can enable India to play an important role in regional financial integration and increase global influence
- 5. Development of Niche Areas:** IFSC to be leveraged for development of niche financial sector activities like Bullion Exchange Aircraft & Ship Leasing
- 6. Innovation in Financial Services:** IFSC can become a Laboratory for India and the world to test new age financial innovations and technologies (FinTech)

CHAPTER 8 - ISSUE OF CAPITAL & DISCLOSURE REQUIREMENTS

1. What is the meaning of Right issue? Which entities are not eligible to make a rights issue? What are the General Conditions for Right issue?

Answer:

“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. In general, fresh shares offered to existing shareholders in proportion to their existing holding in the share capital of the company are termed as “Rights shares” popularly known as rights issue. In this rights issue, the offer is required to be made to the existing shareholders on pro-rata to their existing holdings. The shareholders who are offered may or may not subscribe to the same. They may subscribe partly or fully the offer. They have a power to renounce the shares offered to any other person who need not be an existing shareholder of the company.

An issuer offering specified securities of aggregate value of fifty crore rupees or more, through a rights issue shall satisfy the conditions of Chapter III of SEBI (ICDR) Regulations, 2018 at the time of filing the draft letter of offer with the SEBI and also at the time of filing the final letter of offer with the stock exchanges, as the case may be.

A. Entities not eligible to make a rights issue [Regulation 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 SEBI
- 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 SEBI
- 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 SEBI and the period of debarment is already over as on the date of filing of the draft letter of offer with the SEBI.

B. General conditions [Regulation 62]

- The issuer making a rights issue of specified securities shall ensure that:
 - 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;
 - all its existing partly paid-up equity shares have either been fully paid-up or have been forfeited;
 - it has made firm arrangements of finance through verifiable means towards 75% 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.
- 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 25% of the amount raised by the issuer.
- The amount for:
 - general corporate purposes, and
 - such objects where the issuer company has not identified acquisition or investment target, as mentioned in objects of the issue in the draft offer document and the offer document, shall not exceed 35% of the amount being raised by the issuer. However, the amount raised for such objects where the issuer company has not identified acquisition or investment target, as mentioned in objects of the issue in the draft offer document and the offer document, shall not exceed 25% of the amount being raised by the issuer. However, such limits shall not apply if the proposed acquisition or strategic investment object has been identified and suitable specific disclosures about such acquisitions or investments are made in the draft offer document and the offer document at the time of filing of offer documents.
- Where the issuer or any of its promoters or directors is a willful defaulter or a fraudulent borrower, the promoters or promoter group of the issuer shall not renounce their rights except to the extent of renunciation within the promoter group.

5. 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.

2. Explain the provisions applicable to Bonus issue as per SEBI (ICDR) Regulations, 2018.

Answer:

When an issuer makes an issue of shares to its existing shareholders without any consideration based on the number of shares already held by them as on a record date it is called a bonus issue. The shares are issued out of the Company's free reserve or share premium account in a particular ratio to the number of securities held on a record date.

A listed company issuing bonus shares shall comply with the requirements of Companies Act, 2013 and also Chapter XI of SEBI (ICDR) Regulations, 2018.

A. Conditions for a bonus issue [Regulation 293]

- it is authorised by its articles of association for issue of bonus shares, capitalisation of reserves, etc.
- 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
- it has not defaulted in payment of interest or principal in respect of fixed deposits or debt securities issued by it
- it has not defaulted in respect of the payment of statutory dues of the employees such as contribution to provident fund, gratuity and bonus
- any outstanding partly paid shares on the date of the allotment of the bonus shares, are made fully paid-up
- any of its promoters or directors is not a fugitive economic offender

B. Restrictions on a bonus issue [Regulation 294]

- 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.
- 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.
- 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.
- Bonus shares shall not be issued in lieu of dividends.
- 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.

C. Completion of a bonus issue [Regulation 295]

- 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:
- 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.
- A bonus issue, once announced, shall not be withdrawn.

3. Which Entities not eligible to make an initial public offer in case of initial public offer by Small and Medium Enterprises? What are the General conditions for initial public offer by Small and Medium Enterprises?

Answer:

A. Entities not eligible to make an initial public offer [Regulation 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 SEBI
- 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 SEBI
- c) if the issuer or any of its promoters or directors is a willful defaulter or a fraudulent borrower
- 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 SEBI and the period of debarment is already over as on the date of filing of the draft offer document with the SME Exchange.

B. General conditions [Regulation 230]

1. An issuer making an initial public offer shall ensure that:
 - 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;
 - it has entered into an agreement with a depository for dematerialisation of its specified securities already issued and proposed to be issued;
 - all its existing partly paid-up equity shares have either been fully paid-up or forfeited; all specified securities held by the promoters are in the dematerialised form;
 - it has made firm arrangements of finance through verifiable means towards 75% 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.
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 25% of the amount being raised by the issuer

CHAPTER 9 - SHARE BASED EMPLOYEE BENEFITS AND SWEAT EQUITY

1. Whether contractual employees are eligible to receive benefits under Share Based Employee Benefits schemes?

Answer:

Yes, contractual employees are also eligible to receive benefits under the Share Based Employee Benefits schemes provided they are designated as employees by their employers and are exclusively working with such company or its group company including subsidiary or its associate company or its holding company.

2. Explain the provisions regarding variation of Terms of the Schemes as per SEBI (Share Based Employee Benefits and Sweat Equity) Regulations, 2021.

Answer:

Following are the provisions regarding variation of Terms of the Schemes as per SEBI (Share Based Employee Benefits and Sweat Equity) Regulations, 2021:

1. A company may by special resolution of its shareholders vary the terms of the schemes offered pursuant to an earlier resolution of the general body but not yet exercised by the employees, if such variation is not prejudicial to the interests of the employees.
2. A company shall be entitled to vary the terms of the schemes to meet any regulatory requirement without seeking shareholders' approval by special resolution.
3. The provisions of regulation 6 (Shareholders' Approval) of these regulations shall apply to such variation of terms as they apply to the original grant of option, SAR, shares or other benefits, as the case may be.
4. The notice for passing a special resolution for variation of terms of the schemes shall disclose full details of the variation, the rationale therefor, and the details of the employees who are beneficiaries of such variation.
5. A company may reprice the options, SAR or shares, as the case may be, which are not exercised, whether or not they have been vested, if the schemes were rendered unattractive due to fall in the price of the shares in the stock market. However, the company ensures that such repricing is not detrimental to the interests of the employees and approval of the shareholders by a special resolution has been obtained for such repricing.

3. What will be the treatment of the excess monies or shares remaining with the trust In case of winding up of the schemes?

Answer:

In case of winding up of the schemes being implemented by a company, the excess monies or shares remaining with the trust after meeting all the obligations, if any, shall be utilised for repayment of loan or by way of distribution to employees or subject to approval of the shareholders, be transferred to another scheme under these regulations, as recommended by the compensation committee.

4. Explain the provisions listing as per SEBI (Share Based Employee Benefits and Sweat Equity) Regulations, 2021.

Answer:

In case new issue of shares is made under any scheme, shares so issued shall be listed immediately in any recognised stock exchange.

In case of the existing shares are listed, following conditions need to be fulfilled :-

Scheme is in compliance with these regulations	A statement specified by the SEBI in this regard, is filed and the company has obtained an in-principle approval from the stock exchanges	As and when an exercise is made, the company notifies the concerned stock exchange as per the statement as specified by the SEBI in this regard
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5. What disclosures Board of Directors of the company required to made in relation to employee benefits?**Answer:**

In addition to the information that a company is required to disclose in relation to employee benefits under the Companies Act, 2013, the Board of Directors of such a company shall also disclose the details of the scheme(s) being implemented, as specified in Part F of Schedule – I of these regulations.

6. Explain the accounting treatment for sweat equity shares issued for a non-cash consideration.

Where the sweat equity shares are issued for a non-cash consideration, such non-cash consideration shall be treated in the following manner in the books of account of the company:-

1. where the non-cash consideration takes the form of a depreciable or amortizable asset, it shall be carried to the balance sheet of the company in accordance with the relevant accounting standards; or
2. where the above clause is not applicable, it shall be expensed as provided in the relevant accounting standards.

7. What are the general obligations of Company in the issue of Sweat Equity Shares?

The company shall ensure that –

- a) the explanatory statement to the notice for general meeting contains the disclosures specified under clause (b) of sub-section (1) of section 54 of the Companies Act, 2013 and sub-regulation (1) of regulation 32 of these regulations.
- b) the secretarial auditor's certificate required under regulation 36 is placed in the general meeting of the shareholders.
- c) the company, within seven days of the issue of sweat equity shares, sends a statement to the recognized stock exchange, disclosing:
 - i. number of sweat equity shares issued;
 - ii. price at which the sweat equity shares are issued;
 - iii. total amount received towards sweat equity shares;
 - iv. details of the persons to whom sweat equity shares have been issued; and
 - v. the consequent changes in the capital structure and the shareholding pattern before and after the issue of sweat equity shares.

CHAPTER 10 - ISSUE AND LISTING OF NON-CONVERTIBLE SECURITIES

1. What are the objectives for which SEBI felt the need to merge and realign the ILDS and NCRPS Regulations?

Answer:

Subsequent to the implementation of the ILDS Regulations and NCRPS Regulations, considerable time had elapsed. Significantly, various changes had taken place in the regulatory landscape, like:

- Amendments made to the Companies Act, 2013 ('Companies Act');
- Repeal of the SEBI (Issue of Capital and Disclosure Requirements) Regulations, 2009 and substitution with ICDR Regulations, 2018 ('ICDR Regulations');
- Enhancement of requirements for Debenture Trustees;
- Issue of various circulars in relation to the ILDS and NCRPS Regulations keeping in mind the market dynamics;
- Issue of informal guidance/ interpretative letters regarding interpretation of the regulations etc.

SEBI, hence, felt that there existed a need to merge and realign the ILDS and NCRPS Regulations to ensure that ease of reference and language and also remove redundancies which would entail following objectives:

- a) To simplify and to align the Regulations in line with the various circulars/guidance and various provisions of the regulations, issued by SEBI and improve the structure of the regulations in order to enhance readability;
- b) To identify policy changes in line with the present market practices and the prevailing regulatory environment and to ease doing business;
- c) To separate the chapters on the basis of type of issuance-public/private placement and instruments - debt securities/NCRPS/PNCPS/PDIs/ Commercial Papers, so that all relevant information is sorted and are available at one place;
- d) To align the regulations with the amendment in the Companies (Share Capital and Debentures) Rules, 2014 and Companies (Prospectus and Allotment of Securities) Rules, 2014 etc.;
- e) To merge all the existing circulars into a single operational circular.

2. Explain the Trading of Non-Convertible Securities

Answer:

The trades in non-convertible securities listed on stock exchange shall be cleared and settled through clearing corporation of stock exchange, subject to conditions as specified by the SEBI. In case of trades of non-convertible securities which have been traded over the counter, such trades shall be reported on any one of the reporting platforms of a recognized stock exchange having a nation-wide trading terminal or such other platform as may be specified by the SEBI. The SEBI may specify conditions for reporting of trades on the recognized stock exchange or such other platform as referred to in the regulations.

3. What are the other Obligations of the Lead Manager?

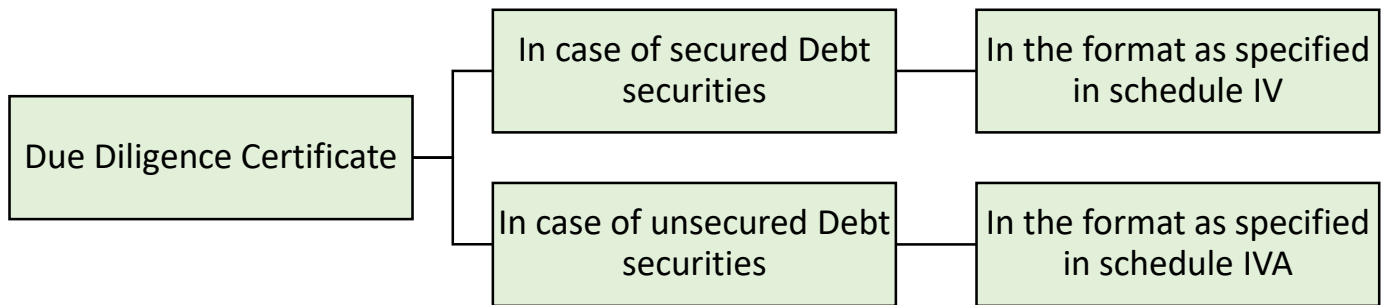
Answer:

Following are the other Obligations of the Lead Manager:

- The lead manager shall not employ any device, scheme, or artifice to defraud in connection with issue or subscription or distribution of debt securities and non-convertible redeemable preference shares which are listed or proposed to be listed on a recognized stock exchange.
- The lead manager shall ensure that the secured debt securities are secured by hundred percent security cover or higher security cover as per the terms of the offer document and/or Debenture Trust Deed, sufficient to discharge the principal amount and the interest thereon at all times for the issued debt securities.
- The lead manager shall ensure payment of additional interest by the issuer in accordance with these regulations in case of non-allotment of debt securities and non-convertible redeemable preference shares.

4. Explain about Due diligence by Debenture trustee**Answer:**

The debenture trustee shall, at the time of filing the draft offer document with the stock exchange and prior to opening of the public issue of debt securities, furnish to the SEBI and stock exchange, a due diligence certificate:



CHAPTER 11 - LISTING OBLIGATIONS AND DISCLOSURE REQUIREMENTS

1. Define “Related Party” under Companies Act 2013

Answers:

According to section 2 (76) of Companies Act, 2013, “related party”, with reference to a company, means—

- i. a director or his relative;
- ii. a key managerial personnel or his relative;
- iii. a firm, in which a director, manager or his relative is a partner;
- iv. a private company in which a director or manager or his relative is a member or director;
- v. a public company in which a director or manager is a director and holds or holds along with his relatives, more than two per cent of its paid-up share capital;
- vi. any body corporate whose Board of Directors, managing director or manager is accustomed to act in accordance with the advice, directions or instructions of a director or manager;
- vii. any person on whose advice, directions or instructions a director or manager is accustomed to act; However, nothing in sub-clauses (vi) and (vii) shall apply to the advice, directions or instructions given in a professional capacity;
- viii. Any body corporate which is –
 - A. a holding, subsidiary or an associate company of such company;
 - B. a subsidiary of a holding company to which it is also a subsidiary; or
 - C. an investing company or the venturer of the company;
 Explanation. – For the purpose of this clause, “the investing company or the venturer of a company” means a body corporate whose investment in the company would result in the company becoming an associate company of the body corporate.
- ix. a director other than an independent director or key managerial personnel of the holding company or his relative with reference to a company, shall be deemed to be a related party.

2. Define Independent Director under SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015.

Answer:

“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 three immediately preceding financial years or during the current financial year;
- V. none of whose relatives-
 - A. is holding securities of or interest in the listed entity, its holding, subsidiary or associate company during the three immediately preceding financial years or during the current financial year of face value in excess of fifty lakh rupees or two percent of the paid-up capital of the listed entity, its holding, subsidiary or associate company, respectively, or such higher sum as may be specified;
 - B. is indebted to the listed entity, its holding, subsidiary or associate company or their promoters or directors, in excess of such amount as may be specified during the three immediately preceding financial years or during the current financial year;
 - C. has given a guarantee or provided any security in connection with the indebtedness of any third person to the listed entity, its holding, subsidiary or associate company or their promoters or directors, for such amount as

may be specified during the three immediately preceding financial years or during the current financial year; or

- D. has any other pecuniary transaction or relationship with the listed entity, its holding, subsidiary or associate company amounting to two percent or more of its gross turnover or total income:

Provided that the pecuniary relationship or transaction with the listed entity, its holding, subsidiary or associate company or their promoters, or directors in relation to points (A) to (D) above shall not exceed two percent of its gross turnover or total income or fifty lakh rupees or such higher amount as may be specified from time to time, whichever is lower.

VI. who, neither himself/herself, 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 or any company belonging to the promoter group of the listed entity, in any of the three financial years immediately preceding the financial year in which he is proposed to be appointed; Provided that in case of a relative, who is an employee other than key managerial personnel, the restriction under this clause shall not apply for his / her employment.
- 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 non-profit organisation that receives twenty-five per cent or more of its receipts or corpus from the listed entity, any of its promoters, directors or its holding, subsidiary or associate company or that holds two per cent or more of the total voting power of the listed entity;
- 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

3. What are the categories of obligations of listed entities?

Answer:

The obligations of listed entities have been classified under following categories –

- Common obligations (Applicable for all listed entities)
- Obligations of Listed entity which has listed its Specified Securities and non-convertible debt securities
- Obligations of Listed entity which has listed its Non-Convertible Securities
- Obligations of Listed entity which has listed its Specified Securities and either Non- Convertible Debt Securities or Non-Convertible Redeemable Preference Shares or both
- Obligations of Listed entity which has listed its Indian depository receipts
- Obligations of Listed entity which has listed its securitized debt instruments
- Obligations of Listed entity which has listed its Security Receipts
- Obligations of Listed entity which has listed its units issued by mutual funds

4. Whether a director of a listed company who is a qualified company secretary can be appointed as a compliance officer in the same listed company?

Answer:

As per Reg. 6(1) of SEBI (LODR) Regulations, 2015, a compliance officer shall be a qualified company secretary. There is no restriction prescribed under these regulations which prohibits the director of the listed company to act as a compliance officer of the listed entity.

5. ABC Limited is a listed entity and having on Board one-woman Director as Executive Director. The Company is within the top 1000 listed entities. Whether the Company still requires to appoint another woman Director?

Answer:

In the given case, the Company will be required to appoint one Independent woman Director as the Company is having Executive woman Director and not independent.

6. Mr. A is non-executive director of ABC Limited. X, Y and Z are promoters of ABC Limited. Mr. A is a chairperson of the Company and he is also related to X. Suggest the requirement of Independent directors for ABC Limited.

Answer:

In the given case, since Mr. A is non-executive chairperson and is related to promoter, then ABC Limited will be required to appoint atleast half of the directors as independent director.

7. ABC Limited is a listed company having all committees constituted in compliance with listing regulations. Its Audit committee having 5 directors, out of which 4 directors are independent. At a meeting of the Audit Committee, 2 directors were present (one non-executive and one independent). Is the meeting valid?

Answer:

In terms of the listing regulations, two independent directors should be present at the meeting of the Audit Committee to constitute a valid quorum. Therefore, the aforesaid Meeting is invalid as only one Independent Director was present.

8. Question: Mr. A is a Director of ABC Listed company. He holds following membership / chairmanship in following companies –

1. Chairman of Audit Committee of ABC Listed company
2. Chairman of Nomination & Remuneration Committee of ABC Listed company
3. Chairman of Stakeholders' Relationship Committee of ABC Listed company
4. Chairman of Audit Committee of XYZ Limited company
5. Chairman of Nomination & Remuneration Committee of XYZ Limited company
6. Chairman of Stakeholders' Relationship Committee of XYZ Limited company

Please advise the limit of membership / chairpersonship.

Answer:

Mr. A, in the given case, is chairman of above mentioned committees. Only Audit Committee and Stakeholders Relationship Committee will be counted for the purpose and both ABC Listed company and XYZ Limited, being public limited company will be considered. In view of the above, his total chairperson is 4 which is within the limit of 5 committee chairpersonship as permitted.

9. A company ABC Limited, listed entity, entered into a transaction with related party namely XYZ Limited for an amount of Rs. 26 Crore. The turnover of ABC Limited is Rs. 240 Cr on standalone basis and after considering consolidation of subsidiaries & associates is Rs. 290 Cr. Please advise whether the transaction is related party transaction or not.

Answer:

A material related party transaction is transaction which either individually or taken together with previous transactions during a financial year, exceeds 10% of the annual consolidated turnover of the listed entity as per the last audited financial statements of the listed entity.

In the above case, ABC Limited has a consolidated turnover of Rs. 290 Cr and therefore, threshold for materiality would be Rs. 29 Cr for a transaction with related party.

In case ABC Limited has not entered into any transaction during the financial year 2019-20, which crosses the overall limit of Rs. 29 Cr including the existing Rs. 26 Cr transaction then it is not material related party transaction.

10. What happens if the Board Meeting held for more than one day?**Answer:**

In case of Board Meetings being held for more than one day, the financial results shall be disclosed within 30 minutes of the end of the meeting for the day on which it has been considered.

11. What are the documents & information which a listed entity required to send its shareholders?**Answer:**

The listed entity shall send the annual report to the shareholders not less than 21 days before the annual general meeting in the following manner:

- a) Soft copies of full annual report to all those shareholders who have registered their email address 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 shareholders who have not so registered;
- c) Hard copies of full annual reports to those shareholders, who request for the same.

12. What is the liability of a listed entity for contravention of any of the provisions of the SEBI (LODR) regulations?**Answer:**

The listed entity or any other person thereof who contravenes any of the provisions of these SEBI (LODR) 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 SEBI:

- 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 SEBI from time to time

CHAPTER 12 - ACQUISITION OF SHARES AND TAKEOVERS – CONCEPTS

1. What are the objectives provided by Shri C. Achutan Committee for the proposed Takeover SEBI (SAST), Regulation, 2011?

Answer:

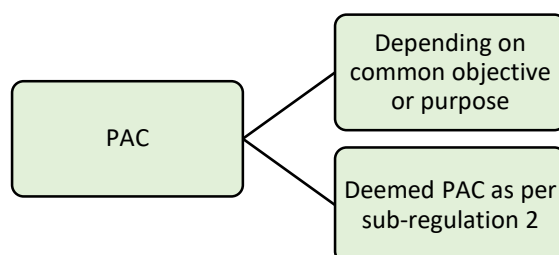
Shri C. Achutan Committee had provided for following objectives of the then proposed Takeover SEBI (SAST), Regulation, 2011:

- a) To provide a transparent legal framework for facilitating takeover activities;
- b) To protect the interests of investors in securities and the securities market, considering that both the acquirer and the other shareholders or investors need a fair, equitable and transparent framework to protect their interests;
- c) To balance the various, and at times, conflicting objectives and interests of various stakeholders in the context of substantial acquisition of shares in, and takeovers of, listed companies;
- d) To provide each shareholder an opportunity to exit his investment in the target company when a substantial acquisition of shares in, or takeover of a target company takes place, on terms that are not inferior to the terms on which substantial shareholders exit their investments;
- e) To provide acquirers with a transparent legal framework to acquire shares in or control of the target company and to make an open offer;
- f) To ensure that the affairs of the target company are conducted in the ordinary course when a target company is subject matter of an open offer;
- g) To ensure that fair and accurate disclosure of all material information is made by persons responsible for making them to various stakeholders to enable them to take informed decisions;
- h) To regulate and provide for fair and effective competition among acquirers desirous of taking over the same target company; and
- i) To ensure that only those acquirers who are capable of actually fulfilling their obligations under the Takeover Regulations make open offers.

2. What is the meaning of Persons Acting in Concert?

Answer:

“Person acting in concert” may be classified in two categories as follows:



“Persons acting in concert” means, –

- (1) persons who, with a common objective or purpose of acquisition of shares or voting rights in, or exercising control over a target company, pursuant to an agreement or understanding, formal or informal, directly or indirectly co-operate for acquisition of shares or voting rights in, or exercise of control over the target company.
- (2) Without prejudice to the generality of the foregoing, the persons falling within the following categories shall be deemed to be persons acting in concert with other persons within the same category, unless the contrary is established, –

- I. a company, its holding company, subsidiary company and any company under the same management or control;
- II. a company, its directors, and any person entrusted with the management of the company;
- III. directors of companies referred to in item (i) and (ii) of this sub-clause and associates of such directors;
- IV. promoters and members of the promoter group;

- V. immediate relatives;
- VI. a mutual fund, its sponsor, trustees, trustee company, and asset management company;
- VII. a collective investment scheme and its collective investment management company, trustees and trustee company;
- VIII. a venture capital fund and its sponsor, trustees, trustee company and asset management company;
- IX. an alternate investment fund and its sponsor, trustees, trustee company and manager;
- X. a merchant banker and its client, who is an acquirer;
- XI. a portfolio manager and its client, who is an acquirer;
- XII. banks, financial advisors and stock brokers of the acquirer, or of any company which is a holding company or subsidiary of the acquirer, and where the acquirer is an individual, of the immediate relative of such individual. However, this shall not apply to a bank whose sole role is that of providing normal commercial banking services or activities in relation to an open offer under these regulations;
- XIII. an investment company or fund and any person who has an interest in such investment company or fund as a shareholder or unitholder having not less than 10 per cent of the paid-up capital of the investment company or unit capital of the fund, and any other investment company or fund in which such person or his associate holds not less than 10 per cent of the paid-up capital of that investment company or unit capital of that fund. However, this shall not be applicable to holding of units of mutual funds registered with the SEBI

3. What is the basis of computation of the creeping acquisitions limit under Regulation 3(2) of Takeover Regulations 2011?

Answer:

For computing acquisitions limits for creeping acquisition specified under regulation 3(2), gross acquisitions/ purchases shall be taken in to account thereby ignoring any intermittent fall in shareholding or voting rights whether owing to disposal of shares or dilution of voting rights on account of fresh issue of shares by the target company. SEBI in the interpretative letter dated 18th September, 2015 issued under the SEBI (Informal Guidance) Scheme, 2003 as requested by M/s Adani Properties Private Limited has held that an exempt acquisition would not be counted towards computing acquisitions on a gross basis.

4. Mr. A is contemplating acquisition of XYZ Limited, a listed entity. He presently holds 23% and his brother, who is having common objective holds 3%. Together their holding is 26%. Mr. A, in view of creeping acquisition limits, desires to further acquire 3% assuming the 5% ceiling in every financial year.

Answer:

In view of Regulation 3(3) as discussed above, though together they hold 26% and can avail 5% ceiling, but in case Mr. A on individual basis crossing the threshold of 25% or more (since presently he holds 23% and further contemplates to acquire 3% more), he will be required to make open offer. However, in given case, if his brother only acquires 3% and increase their total holding to 29% then their will be no requirement of Open Offer.

5. What are the Key differences between Compulsory and Voluntary Open Offer?

Answer:

Following are the Key differences between Compulsory and Voluntary Open Offer:

Particulars	Compulsory Open Offer	Voluntary Open Offer
Eligibility	Can be triggered through both direct and indirect acquisition.	Can be triggered by acquirer holding in excess of 25% or more. Further the acquirer or PAC should not have acquired shares of target Company without the obligation to make mandatory offer during the preceding 52 weeks
Applicability	On crossing the threshold or the creeping acquisition or by way of control	No such applicability is required

Minimum size of Open Offer	Minimum size shall be 26% of the total shares of the target company	Minimum size shall be 10% of the total shares of the target company
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6. Which exemptions require PRIOR disclosures / intimation to stock exchanges?

Answer:

Certain exemptions require PRIOR disclosures / intimation to stock exchanges as tabulated below:

Particulars	Timeline
Regulation 10(1): (a) acquisition pursuant to inter se transfer of shares amongst qualifying persons.	At least four working days prior to the proposed acquisition, intimate the Stock Exchanges and the Target company with details of proposed acquisition.
Regulation 10(4): (e) acquisition of shares in a target company from state-level financial institutions or their subsidiaries or companies promoted by them, by promoters of the target company pursuant to an agreement between such transferors and such promoter; (f) acquisition of shares in a target company from a venture capital fund or Category I Alternative Investment Fund or a foreign venture capital investor registered with the SEBI, by promoters of the target company pursuant to an agreement between such venture capital fund or category I Alternative Investment Fund or foreign venture capital investor and such promoters.	At least four working days prior to the proposed acquisition, intimate the Stock Exchanges and the Target company with details of proposed acquisition.

7. Explain about the report to be submitted to stock exchange in case of exemptions?

Answer:

In respect of any acquisition made pursuant to exemption provided, the acquirer shall file a report with the stock exchanges where the shares of the target company are listed, in such form as may be specified not later than four working days from the acquisition.

8. Mr. X is Promoter of ABC (India) Limited (Target Company). Mr. X is presently holding 53,073 shares constituting 0.52% of the paid up equity capital of the Target Company. Further, Mr. X has been allotted 75,000 convertible warrants, convertible in to equity. After conversion of warrant in to equity the shareholding of Mr. X will increase from 0.52% to 1.26% of the paid up equity capital. Further, Ms. Z who is Mr. X's elder sister's daughter and holding 7,80,000 equity shares constituting 7.76% of the paid up equity share capital of the Company. Ms. Z is a foreign shareholder and she wanted to gift (Off Market Transaction) her entire shareholding to her mother Mrs. Y and in turn Mrs. Y wanted to gift the entire shareholding to Mr. X. If the entire transaction as contemplated, if concluded, then the shareholding of Mr. X will increase from 0.52% to 9.02% and the shareholding of the promoter group will increase from 34.28% to 43.30%. You have been engaged as Practising Company Secretary by Mr. X to advise on the following:

- Is this increase in the promoter group shareholding would trigger open offer requirements in terms of Regulation 3(2) of the SEBI (SAST) Regulation, 2011.**
- Further, Whether such transaction would be exempted under Regulation 10 of the SEBI (SAST) Regulations, 2011.**

Answer:

The set of facts as disclosed in the question contains three transactions. First, conversion of convertible warrants in to equity. Secondly, transfer of shares through off market transaction from Ms. Z to Mrs. Y and thirdly, transfer of shares through off market transaction from Mrs. Y to Mr. X. Regarding the first transaction, the trigger and open offer requirements, if any has to be considered at the time of conversion of warrants in to equity as the same would depends on the shareholding pattern of the promoter and promoter's group prevailing at the time of conversion of warrants in to equity shares. Regarding the second and third transaction, considering that Ms. Z, Mrs. Y and Mr. X are immediate

relative thus they would be considered as PAC in terms of Regulation 2(1)(q) of the SEBI (SAST) Regulations, 2011. Therefore, the shareholding of the promoters along with PACs would increase more than 5% limit and would trigger open offer requirements under Regulation 3(2) of the SEBI (SAST), 2011.

However, the transaction is between immediate relatives, the transaction would be exempt from the obligation to make an open offer as per Regulation 10(1)(a)(i) of the SEBI (SAST), Regulations, 2011 subject to the compliance with the conditions as mentioned under the proviso to Regulation 10(1)(a)(i) and Regulation 10(5), (6) and (7) of the SEBI (SAST), Regulations, 2011.

CHAPTER 13 - PROHIBITION OF INSIDER TRADING

1. Write short note on various Committees Recommending Prohibition of Insider Trading

Answer:

Committees Recommending Prohibition of Insider Trading

1948 Thomas Committee	Under the chairmanship of P.J. Thomas, the then Economic Adviser to the Finance Ministry. On the basis of Recommendations of the Committee Section 307 and 308 of Companies Act 1956 dealing with disclosure of shareholdings of directors/managers introduced
1950 Bhabha Committee	The Bhabha Committee report made a distinction between the directors who buy or sell shares while in possession of general information and those who buy or sell shares based on the specific information, such as the conclusion of a favourable contract or the intention of a company's board to recommend an increased dividend.
1977 Sachar Committee	Recommended comprehensive amendments to sections 307 and 308 with a view to strengthening the provisions thereof. The Committee made two-fold recommendations - one relating to fuller disclosure of transactions by those who have price-sensitive information and another prohibition of transactions by such persons during certain specified period unless there are exceptional circumstances.
1984 Patel Committee	Recommended measures to prohibit the practice of insider trading and suggested draft legislation by way of amendments to the Securities Contracts (Regulation) Act.
J.J. Irani Committee	The Companies Act should facilitate disclosure of actual control structures and prohibition of Insider trading as well as management entrenchment. We feel that international best practices should be adapted to the Indian situation while enabling a framework that ensures credibility of corporate operations in the minds of the stakeholders.
1989 Abid Hussain	The committee proposed that insider trading should be regarded as a major offence, punishable with civil as well as criminal penalties. The committee recommended that the SEBI should be asked to formulate the necessary legislation, empowering itself with the authority to enforce the provisions.
2014 Sodhi committee	The Committee has made a range of recommendations to the legal framework for prohibition of insider trading in India and has focused on making this area of regulation more predictable, precise and clear by suggesting a combination of principles-based regulations and rules that are backed by principles.
2018 Vishvanathan Committee	The committee has made various recommendations including compliance officer to be financially literate, insertion of structured digital data base containing names of persons with whom information is shared.

2. Explain provisions of Insider trading under SEBI Act 1992

Answer:

Following are the provisions of Insider trading under SEBI Act 1992:

- **Section 12A-** No person shall directly or indirectly –
 - engage in insider trading;
 - deal in securities while in possession of material or non-public information or communicate such material or non-public information to any other person, in a manner which is in contravention of the provisions of this Act or the rules or the regulations made thereunder.

- **Section 15G**

Penalty for insider trading

If any insider who, –

- either on his own behalf or on behalf of any other person, deals in securities of a body corporate listed on any stock exchange on the basis of any unpublished price-sensitive information; or
- communicates any unpublished price-sensitive information to any person, with or without his request for such information except as required in the ordinary course of business or under any law; or
- counsels, or procures for any other person to deal in any securities of any body corporate on the basis of unpublished price-sensitive information, shall be liable to a penalty [which shall not be less than ten lakh rupees but which may extend to twenty-five crore rupees or three times the amount of profits made out of insider trading, whichever is higher.

3. Can a senior person, say a Chief Financial Officer (CFO) or a Company Secretary (CS), who is not reporting to the Board, act as compliance officer and update the Board on the transactions related to Insider Trading Quarterly. Can the company appoint more than one person as the Compliance Officer under the Code? Can CS as well as CFO be appointed as a Compliance Officer, so that one can sign and submit the documents if the other person is on travel?

Answer:

Guidance from SEBI: Regulation 2(1) (c) of SEBI (PIT) Regulations, 2015 defines compliance officer as 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:

- a) compliance of policies, procedures, maintenance of records, monitoring adherence to the rules for the preservation of unpublished price sensitive information;
- b) 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 may be.

The company may at its discretion appoint any senior officer as the Compliance Officer, necessarily report to the Board of directors or head of the organization as the case may be. Appointing any other person shall not be in accordance with the Regulations. In case of appointing more than one person as Compliance Officer they shall be held jointly and severally responsible.

4. If a spouse is financially independent and does not consult an insider while taking trading decisions, is that spouse exempted from the definition of 'immediate relative'?

Answer:

A spouse is presumed to be an 'immediate relative', unless rebutted so.

5. What information should a listed Company maintain in its structured digital database under Regulation 3(5), in case the designated person is a fiduciary or intermediary?

Answer:

The listed company should maintain the names of the fiduciary or intermediary with whom they have shared information along with the Permanent Account Number (PAN) or other unique identifier authorized by law, in case PAN is not available. The fiduciary / intermediary, shall at their end, be required to maintain details as required under the Schedule C in respect of persons having access to UPSI.

For example: If the listed company has appointed a law firm or Merchant Banker in respect of fund raising activity, it should obtain the name of the entity, so appointed, along with the PAN or other identifier, in case PAN is not available. The law firm or the Merchant Banker would in turn maintain its list of persons along with PAN or other unique identifier (in case PAN is not available), in accordance with Regulation 9A(2)(d) and as required under Schedule C, with whom they have shared the unpublished price sensitive information.

6. Whether creation of a pledge or invocation of pledge is allowed when trading window is closed?**Answer:**

Yes, however, the pledgor or pledgee may demonstrate that the creation of the pledge or invocation of pledge was bona-fide and prove this innocence under proviso to sub-regulation (1) of Regulation 4.

7. Whether Chief Investor Relations Officer (CIRO) will also be responsible along with Compliance Officer for not disseminating information or non-disclosure of UPSI?**Answer:**

Regulation 2(c) clearly provides the functions and responsibilities of the compliance officer. Specific responsibilities to deal with dissemination of information and disclosure of UPSI are given to CIRO under clause 30 of Schedule A. It is company's discretion to designate two separate persons as CIRO and compliance officer, respectively for fulfilling specified responsibilities in cases where CIRO and compliance officer have been designated for overlapping functions, they shall be jointly and severally responsible.

8. Whether contra trade is allowed within the duration of the trading plan?**Answer:**

Any trading plan opted by a person under trading plan can be done only to the extent and in the manner disclosed in the plan, save and except for pledging of securities.

9. Explain brief process flow of submission to the SEBI.**Answer:**

Following is the brief process flow of submission to the SEBI:

- An Informant shall submit Original Information in Voluntary Information Disclosure Form to the Office of Informant Protection of the SEBI.
- The format and manner of the Form shall be as set out in Schedule D and may be submitted by a legal representative of the Informant.
- If the Informant does not submit the Form through a legal representative SEBI may require the Informant to appear in person to ascertain his/her identity & veracity of the information.
- The Informant while submitting the Voluntary Information Disclosure Form shall expunge the information in the Form which could reasonably be expected to reveal his/her identity.
- If expunging the information is not possible the Informant may identify such information /document that he believes could reasonably be expected to reveal his/her identity.

10. Explain Minimum Standards for Code of Conduct under SEBI (Prohibition of Insider Trading) Regulations, 2015

Schedule B of SEBI (Prohibition of Insider Trading) Regulations, 2015 lays down the following minimum standards for Code of Conduct for listed companies to regulate, monitor and report trading by designated persons:-

1. The Compliance Officer shall report to the board of directors and in particular, shall provide reports to the Chairman of the Audit Committee, if any, or to the Chairman of the board of directors at such frequency as may be stipulated by the board of directors but not less than once in a year.
2. All information shall be handled within the organisation on a need-to-know basis and no unpublished price sensitive information shall be communicated to any person except in furtherance of legitimate purposes, performance of duties or discharge of legal obligations.
3. The code of conduct shall contain norms for appropriate Chinese Walls procedures, and processes for permitting any designated person to "cross the wall".
4. Designated persons and immediate relatives of designated persons in the organisation shall be governed by an internal code of conduct governing dealing in securities.
5. Designated persons may execute trades subject to compliance with these regulations. Towards this end, a notional trading window shall be used as an instrument of monitoring trading by the designated persons.

6. The trading window shall be closed when the compliance officer determines that a designated person or class of designated persons can reasonably be expected to have possession of unpublished price sensitive information. Such closure shall be imposed in relation to such securities to which such unpublished price sensitive information relates.
7. Designated persons and their immediate relatives shall not trade in securities when the trading window is closed.
8. Trading restriction period shall be made applicable from the end of every quarter till 48 hours after the declaration of financial results. The gap between clearance of accounts by audit committee and board meeting should be as narrow as possible and preferably on the same day to avoid leakage of material information.
9. The timing for re-opening of the trading window shall be determined by the compliance officer taking into account various factors including the unpublished price sensitive information in question becoming generally available and being capable of assimilation by the market, which in any event shall not be earlier than forty-eight hours after the information becomes generally available.
10. When the trading window is open, trading by designated persons shall be subject to pre-clearance by the compliance officer, if the value of the proposed trades is above such thresholds as the board of directors may stipulate.
11. Prior to approving any trades, the compliance officer shall be entitled to seek declarations to the effect that the applicant for pre-clearance is not in possession of any unpublished price sensitive information.
12. He shall also have regard to whether any such declaration is reasonably capable of being rendered inaccurate.
13. The code of conduct shall specify any reasonable timeframe, which in any event shall not be more than seven trading days, within which trades that have been pre-cleared have to be executed by the designated person, failing which fresh pre-clearance would be needed for the trades to be executed.
14. The code of conduct shall specify the period, which in any event shall not be less than six months, within which a designated person who is permitted to trade shall not execute a contra trade.
15. The code of conduct shall stipulate such formats as the board of directors deems necessary for making applications for pre-clearance, reporting of trades executed, reporting of decisions not to trade after securing pre-clearance, and for reporting level of holdings in securities at such intervals as may be determined as being necessary to monitor compliance with these regulations.

11. Prepare checklist for compliance officer under SEBI (Prohibition of Insider Trading) Regulations, 2015

Answer:

CHECKLIST FOR COMPLIANCE OFFICER:

As per Regulation 2(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 may be;

I. Compliance of policies and procedures

- a) Whether the Company has formulated code of practices and procedures for fair disclosure of UPSI as per the principles set out in the regulations.
- b) Whether the code of fair disclosure is published on the website of the company.
- c) Whether the code of fair disclosure and amendments thereof has been intimated to the stock exchanges.
- d) Whether the company has formulated code of conduct to regulate, monitor and report trading by its designated persons and immediate relatives of designated persons.

- e) Whether the Board has designated the chief executive officer or managing director to formulate the code of conduct with their approval.
- f) Whether the company has designated a compliance officer to administer the code of conduct and other requirements.
- g) It is advisable to train the employees on principles of fair disclosure and code of conduct.

II. Maintenance of records

Ensure that disclosures of trades by insiders are maintained for a minimum period of five years.

III. Monitoring UPSI

- a) Identify the nature of information, whether it is an Unpublished Price Sensitive Information or Generally available information.
- b) Designate a senior officer as Chief investor relations officer to deal with dissemination of information and disclosure of UPSI.
- c) Ensure to handle the UPSI on need to know basis.
- d) Do not share UPSI with analysts and research personnel.
- e) Disseminate UPSI uniformly to avoid selective disclosure.
- f) Identify the designated persons (Employees designated on the basis of their functional role) to monitor the use of UPSI.
- g) Declaration from persons seeking pre-clearance that they are not in possession of UPSI.

IV. To Advise the Board on Minimum Standards for Code of Conduct.

V. To advise on designated persons who shall be governed by the code of conduct. Employees designated on the basis of their functional role ("designated persons") in the organisation shall be governed by an internal code of conduct governing dealing in securities.

VI. To advise on mechanism for dissemination of information on need-to-know basis.

VII. To advise on the closure of trading window.

VIII. To advise on the format of applications of pre-clearance, reporting of trades etc.

IX. To maintain restricted list of securities which shall be used as the basis for approving/rejecting applications for pre-clearance.

X. To prescribe norms for Chinese wall procedures.

XI. To prescribe the time limit within which the trades are to be executed from the date of pre-clearance which should not be more than seven days.

XII. Trading plans.

- a) Monitoring of Trading Plans.
- b) Approval of Trading plans.

XIII. Intimation to stock exchanges

- a) Intimation of Initial disclosures by Directors/KMP/Promoters/member of promoter group.
- b) Intimation of continual disclosures by Promoter/member of promoter group/directors/designated persons (including KMP as designated person).
- c) Intimation of disclosures by other connected persons.

12. Prepare checklist for Board of Directors under SEBI (Prohibition of Insider Trading) Regulations, 2015

Answer:

CHECKLISTS FOR BOARD OF DIRECTORS:

- a) To formulate Code of Fair disclosure.
- b) To formulate Code of Conduct.
- c) Communication of UPSI in the best interest of the Company relating to transaction as given in Regulation 3(3).
- d) Obtaining non-disclosure agreement from parties to whom the UPSI is communicated as given in Regulation 3(4).
- e) In consultation with the compliance officer, to specify the designated persons to be covered by such code on the basis of their role and function in the organisation.

- f) To fix thresholds for pre-clearance.
- g) To prescribe format for application for pre-clearance, reporting of trades executed, reporting of decisions not to trade after securing pre-clearance, recording of reasons for such decisions and for reporting level of holdings in securities at such intervals as may be determined as being necessary to monitor compliance with these regulations.

CHAPTER 14 - PROHIBITION OF FRAUDULENT AND UNFAIR TRADE PRACTICES RELATING TO SECURITIES MARKET

1. What are the duties of person in respect of whom an investigation has been ordered under SEBI (Prohibition of Fraudulent and Unfair Trade Practices Relating to Securities Market) Regulations, 2003?

Answer:

Following is the duty of every person in respect of whom an investigation has been ordered under SEBI (Prohibition of Fraudulent and Unfair Trade Practices Relating to Securities Market) Regulations, 2003

1. to produce to the Investigating Authority or any person authorized by him such books, accounts and other documents and record in his custody or control and to furnish such statements and information as the Investigating Authority or the person so authorized by him may reasonably require for the purposes of the investigation;
2. to appear before the Investigating Authority personally when required and to answer any question which is put to him by the Investigating Authority.
3. Without prejudice to the provisions of the Companies Act, 2013, it shall be the duty of every manager, managing director, officer and other employee of the company and every intermediary referred to in section 12 of the SEBI Act or every person associated with the securities market to preserve and to produce to the Investigating Authority or any person authorized by him in this behalf, all the books, registers, other documents and record of, or relating to, the company or, as the case may be, of or relating to, the intermediary or such person, which are in their custody or power.
4. Such person shall—
 - a) allow the Investigating Authority or any person authorized by him to have access to the premises occupied by such person at all reasonable times for the purpose of investigation;
 - b) extend reasonable facilities for examining any books, accounts and other documents in his custody or control (whether kept manually or in computer or in any other form) reasonably required for the purposes of the investigation;
 - c) provide any such books, accounts and records which, in the opinion of the Investigating Authority, are relevant to the investigation or, as the case may be, allow the Investigating Authority or any person authorized by him in this behalf to take computer print-outs thereof.

2. Explain the manner of service of summons and notices issued by the SEBI under SEBI (Prohibition of Fraudulent and Unfair Trade Practices Relating to Securities Market) Regulations, 2003.

Answer:

Following is the manner of service of summons and notices issued by the SEBI under SEBI (Prohibition of Fraudulent and Unfair Trade Practices Relating to Securities Market) Regulations, 2003.

- 1) A summons or notice issued by the SEBI shall be served on the person through any of the following modes, namely—
 - a) by delivering or tendering it to that person or his duly authorised agent; or
 - b) by sending it to the person by fax or electronic mail or electronic instant messaging services along with electronic mail or by courier or speed post or registered post:

However, the courier or speed post or registered post shall be sent to the address of his place of residence or his last known place of residence or the place where he carried on, or last carried on, business or personally works, or last worked, for gain, with acknowledgment due.
- 2) In case of failure to serve a summons or notice through any one of the modes as mentioned above, the summons or notice may be affixed on the outer door or some other conspicuous part of the premises in which the person resides or is known to have last resided, or carried on business or personally works, or last worked, for gain and a written report thereof shall be prepared in the presence of two witnesses.
- 3) In case of failure to affix the summons or notice on the outer door, the summons or notice shall be published in at least two newspapers, one of which shall be in an English daily newspaper having nationwide circulation and

another shall be in a newspaper having wide circulation published in the language of the region where that person was last known to have resided or carried on business or personally worked for gain.

CHAPTER 15 - DELISTING OF EQUITY SHARES

1. What are the objectives on which SEBI replaced the SEBI (Delisting of Equity Shares) Regulations, 2009.

Answer:

To further streamline and strengthen the delisting process / regulations, a comprehensive review of the delisting regulations has been proposed with the following key objectives:

- Enhance disclosures to help investors to take informed investment decisions
- Refine process
- Rationalize the existing timelines, so as to complete the delisting in time bound manner
- Streamline the delisting regulations to make it robust, efficient, transparent and investor's friendly
- Plug gaps
- Update references to the Companies Act, 2013 and other securities laws.

Taking note of the above objectives, SEBI vide its notification dated June 10, 2021 had notified the SEBI (Delisting of Equity Shares) Regulations, 2021 which have now completely replaced the SEBI (Delisting of Equity Shares) Regulations, 2009.

2. The equity Shares of XYZ limited have been delisted from the stock exchange. When can an application be made for listing of such equity shares of XYZ limited?

Answer:

No application for listing shall be made in respect of equity shares of a company which have been delisted under Chapter III (Voluntary Delisting) or under Chapter VI (Exit Opportunity in case delisting of equity shares of a company from all the recognised stock exchanges), for a period of 3 years from the delisting and which have been delisted under Chapter V (Compulsory Delisting), for a period of 10 years from the delisting, except the following:

- whose equity shares have been delisted pursuant to a resolution plan under section 31 of the Insolvency Code;
- whose equity shares are listed and traded on the innovators growth platform pursuant to an initial public offer and which is delisted from the said platform;
- whose equity shares have been delisted in terms of regulation 35 (Delisting of equity shares of small companies).

3. Calculate the final offer price from following information

Bid Price (Rs.)	Number of investors	Demand (Number of shares)	Cumulative demand (Number of shares)
550	5	2,50,000	2,50,000
565	8	4,00,000	6,50,000
575	10	2,00,000	8,50,000
585	4	4,00,000	12,50,000
595	6	1,20,000	13,70,000
600	5	1,30,000	15,00,000
605	3	2,10,000	17,10,000
610	3	1,40,000	18,50,000
615	3	1,50,000	20,00,000
620	1	5,00,000	25,00,000
Total	48	25,00,000	

Answer:

In the given illustration, assuming floor price of Rs.550/- per share, promoter/ acquirer shareholding at 75% and number of shares required for successful delisting as 15,00,000, the final price would be the price at which the promoter reaches the threshold of 90%, i.e., it would be Rs.600/- per share.

CHAPTER 16 - BUY BACK OF SECURITIES

1. What is the applicability of SEBI (Buy-back of Securities) Regulations, 2018?

Answer:

SEBI (Buy-back of Securities) Regulations, 2018 shall apply to buy-back of shares or other specified securities of a company in accordance with the applicable provisions of the Companies Act, 2013. Explanation: For the purposes of these regulations, the term “shares” shall include equity shares having superior voting rights.

2. Extract of Balance Sheet of X Ltd consist of:

Equity Share Capital = Rs. 6,00,000 of Rs. 10 each

12% Preference Share Capital = Rs. 1,00,000 of Rs. 100 each

14% Debenture Capital = Rs. 3,00,000 of Rs. 100

What is the maximum equity share capital and number of equity shares that can be bought back?

Answer:

(i) Maximum equity share capital that can be bought back

= Rs. 6,00,000 * 25%

= Rs. 1,50,000

(ii) Maximum number of equity shares that can be bought back

= Rs. 1,50,000 / 10

= 15,000 equity shares

3. The financial data of a listed company as on 31st March, 2022 are as follows : Authorized equity share capital Rs. 10 crore (1 crore shares of Rs.10 each) Paid-up equity share capital Rs. 5 crore General reserve Rs. 3 crore Debenture redemption reserve Rs. 2 crore The Board of directors of your company passed resolution by circulation for buy-back of shares to the extent of 9% of the company's paid-up share capital and free reserves. You are required to examine the validity of the proposal with reference to the provisions of the SEBI Regulations.

Answer:

According to the regulation 5 of the SEBI (Buy-back of Securities) Regulations, 2018, the company shall not authorize any buy-back (whether by way of tender offer or from open market or odd lot) unless a special resolution has been passed at a general meeting of the company authorising the buy-back. However, special resolution is not required, where the buy-back is, ten per cent or less of the total paid-up equity capital and free reserves of the company; and such buy-back has been authorised by the board of directors by means of a resolution passed at its meeting. In the given case, the company desired to buy-back of shares to the extent of 9% of paid-up capital and free reserves by way of passing of board resolution through circulation, However, as per above regulations, the board resolution should be passed at its meeting not through circulation. Therefore, with reference to the above stated provisions, the proposal of buy-back is not valid.

4. what are mandatory disclosures in explanatory statement specified under sub-section 3 of section 68 of the Companies Act?

Answer:

The notice of the meeting at which the special resolution is proposed to be passed shall be accompanied by an explanatory statement pursuant to section 102 of the Companies Act containing mandatory disclosures as Specified under sub-section 3 of section 68 of the Companies Act –

- a full and complete disclosure of all material facts;
- the necessity for the buy-back;
- the class of shares or securities intended to be purchased under the buy-back;
- the amount to be invested under the buy-back; and
- the time-limit for completion of buy-back.

5. What are the additional disclosures in explanatory statement as per Companies Act 2013?

Answer:

The company is required to provide an additional disclosure as per Schedule I to these regulations, in addition to disclosures mentioned above under sub section 3 of section 68 of the Companies Act, 2013 as discussed below:

- i. Date of the Board meeting at which the proposal for buy-back was approved by the Board of Directors of the company;
- ii. Necessity for the buy-back;
- iii. Maximum amount required under the buy-back and its percentage of the total paid up capital and free reserves;
- iv. Maximum price at which the shares or other specified securities are proposed be bought back and the basis of arriving at the buy-back price;
- v. Maximum number of securities that the company proposes to buy-back;
- vi. Method to be adopted for buy-back as referred to in sub-regulation (iv) of regulation 4;
- vii. (a) the aggregate shareholding of the promoter and of the directors of the promoters, where the promoter is a company and of persons who are in control of the company as on the date of the notice convening the General Meeting or the Meeting of the Board of Directors;
(b) aggregate number of shares or other specified securities purchased or sold by persons including The company is required to provide an additional disclosure as per Schedule I to these regulations, in addition to disclosures mentioned above under sub section 3 of section 68 of the Companies Act, 2013 as discussed below:
(c) the maximum and minimum price at which purchases and sales referred to in (b) above were made along with the relevant dates;
- viii. Intention of the promoters and persons in control of the company to tender shares or other specified securities for buy-back indicating the number of shares or other specified securities, details of acquisition with dates and price;
- ix. A confirmation that there are no defaults subsisting in repayment of deposits, redemption of debentures or preference shares or repayment of term loans to any financial institutions or banks;
- x. A confirmation that the Board of Directors has made a full enquiry into the affairs and prospects of the company and that they have formed the opinion:
 - a. that immediately following the date on which the General Meeting or the meeting of the Board of Directors is convened there will be no grounds on which the company could be found unable to pay its debts;
 - b. as regards its prospects for the year immediately following that date that, having regard to their intentions with respect to the management of the company's business during that year and to the amount and character of the financial resources which will in their view be available to the company during that year, the company will be able to meet its liabilities as and when they fall due and will not be rendered insolvent within a period of one year from that date; and
 - c. in forming their opinion for the above purposes, the directors shall take into account the liabilities as if the company were being wound up under the provisions of the Companies Act, 1956 or Companies Act, 2013 or the Insolvency and Bankruptcy Code 2016 (including prospective and contingent liabilities);
- xi. A report addressed to the Board of Directors by the company's auditors stating that-
 - a. they have inquired into the company's state of affairs;
 - b. the amount of the permissible capital payment for the securities in question is in their view properly determined; and
 - c. the Board of Directors have formed the opinion as specified in clause (x) on reasonable grounds and that the company will not, having regard to its state of affairs, will not be rendered insolvent within a period of one year from that date.

6. What are the additional disclosures in addition in explanatory statement for buyback through tender offer?

Answer:

In addition to the disclosures provided in Schedule I to these regulations, the following disclosure are required to be made in the explanatory statement for buyback through tender offer:

- 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 authorized at the general meeting to determine subsequently the specific price at which the buy-back may be made at the appropriate time;
- 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.

7. Can unregistered shareholder tender his shares for buy-back?

Answer:

Yes, 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.

8. Explain the categories of shares proposed to be bought back through tender offer.

Answer:

- The shares proposed to be bought back shall be divided into two categories;
 - a. Reserved category for small shareholders; and
 - b. General category for other shareholders, and the entitlement of a shareholder in each category shall be calculated accordingly.
- 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.
- 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.
- Shareholders holding shares in physical form will not be eligible to tender shares under the offer, unless the shares held by them are dematerialised.

9. What are the obligations of the Company in buy back of shares or other specified securities?

Answer:

Following are the obligations of the Company in buy back of shares or other specified securities:

- 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 buy-back 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 SEBI 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 buy-back period, except in discharge of its subsisting obligations.
- 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, 2013.
- 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.
- particulars of the security certificate 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.
- 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.
- 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 percent of total shares or other specified securities are bought back; and
 - e. the consequent changes in the capital structure and the shareholding pattern after and before the buy-back.
- 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.

10. What are the obligations of the Merchant Banker in buy back of shares or other specified securities?

Answer:

Following are the obligations of the Merchant Banker in buy back of shares or other specified securities: The merchant banker shall ensure that –

- the company is able to implement the offer; I the provision relating to escrow account has been complied with;
- firm arrangements for monies for payment to fulfill the obligations under the offer are in place; I the public announcement of buy-back is made in terms of the regulations;
- the letter of offer has been filed in terms of the regulations;
- a due diligence certificate along with the draft letter of offer has been furnished to SEBI;
- 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;
- 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;
- the bank with whom the escrow or special amount has been deposited releases the balance amount to the company only upon fulfilment of all obligations by the company under the regulations;
- a final report is submitted to SEBI in the form specified within fifteen days from the date of expiry of buy-back period.

CHAPTER 17 - MUTUAL FUNDS

1. Give the list of all stakeholders in Indian mutual fund industry.

Answer:

list of all stakeholders in Indian mutual fund industry is as follows:

- Reserve Bank of India (RBI)
- Securities and Exchange Board of India (SEBI)
- Association of Mutual Funds in India (AMFI)
- Ministry of Finance
- Self Regulatory Organization (SROs)
- Income Tax Regulations
- Investors' Associations

2. Calculate HPR for a unit holder who bought a unit at Rs. 17.60 and received a dividend of Rs. 2 per unit during the period. Face value of the unit is ` 10 and current unit price is Rs. 19.875

Answer:

$$\begin{aligned} \text{HPR} &= \frac{\text{Dividend} + (\text{NAV at present} - \text{NAV at purchase})}{\text{NAV at purchase}} \times 100 \\ &= \frac{2 + (19.875 - 17.60)}{17.60} \times 100 \\ \text{HPR} &= 24.29\% \end{aligned}$$

3. What is KYC? Where it can be done?

Answer:

Know Your Client (KYC)

- A one-time process made mandatory to invest in mutual funds
- Key details required: PAN, Address proof, contact details, occupation and income details
- With a view to bring uniformity in the KYC requirements for the securities markets, SEBI has initiated usage of uniform KYC by all SEBI registered intermediaries. In this regard SEBI has issued the SEBI {KYC (Know Your Client) Registration Agency (KRA)}, Regulations, 2011.

Where can it be done?

- CDSL Ventures Limited KRA
- CAMS KRA
- Karvy KRA
- NDML KRA (wholly owned subsidiary of NSDL)
- NSE Data & Analytics Limited (wholly owned subsidiary of NSE)

4. What is FATCA?

Answer:

Foreign Account Tax Compliance Act (FATCA)

- Requires that all financial institutions (including Indian mutual funds) need to report financial transactions of US persons and entities in which US persons hold a substantial ownership
- Enacted to prevent tax evasion through foreign investments
- Key details required: Country of birth, Country of citizenship, country of tax residence, TIN from such country
- Currently made mandatory for all investors (existing and new) in Indian mutual funds
- For non-individual investors, Ultimate Beneficial Ownership (UBO) details have to be provided.

5. What are the modes of holding mutual fund?**Answer:**

Following are the modes of holding mutual fund:

- Single
- Either or Survivor or Signature of any of the applicants is sufficient for making transactions
- Joint or Signature of all the applicants is required for making transactions.

6. Explain provision of Nomination in mutual fund.**Answer:**

- Nomination is a facility that enables an individual unitholder to nominate a person, who can claim the Units held by the unitholder or the redemption proceeds thereof in the event of death the unitholder
- Up to 3 nominees can be registered for a folio
- Units get transferred to the nominees (in the proportion specified) in case of the investor's demise
- Nomination can be updated as and when required by the investor
- A minor can also be nominated, provided the guardian is specified
- If nomination is not registered, in case of death of the investor, the legal heir has to produce documents such as Will, Legal Heir Certificate, No-Objection Certificate from other legal heirs, etc

7. What is Net Asset Value (NAV) – Cut-off Timeline?**Answer:**

Following is the Net Asset Value (NAV) – Cut-off Timeline:

Type of Scheme	Transaction type	Cut-off timings
Liquid Funds & Overnight Funds	Subscription (including Switch-in from other schemes)	1:30 p.m.
	Redemption (including Switch-in from other schemes)	3:00 p.m.
All other schemes (other than Liquid Funds / Overnight Funds)	Subscription (including Switch-in from other schemes)	3:00 p.m.
	Redemption (including Switch-in from other schemes)	3:00 p.m.

8. Name of the Scheme**XYZ****Size of the Scheme****Rs.100 Lakh****Face Value of the Share****Rs.10****Number of the outstanding shares****10 Lakhs****Market value of the fund's investments Receivables****Rs.180 Lakhs****Accrued Income****Rs.1 Lakhs****Receivables****Rs.1 Lakh****Liabilities****Rs.50,000****Accrued expenses****Rs.50,000****Find NAV per unit?****Answer:**

NAV per unit = (Investment + Recoverable + Accrued Income – Liabilities – Accrued expenses/No of units (mutual fund))
 = (180 Lakhs + 1 Lakh + 1 – 0.50 Lakh – 0.50 Lakh)/10 Lakhs

NAV = Rs.18.10 per unit

9. ABC mutual Fund has the following assets in scheme XYZ at the close business on 31st March, 2022.

Company	No. of Shares	Market Price Per Share
N Ltd	25000	Rs. 20
D Ltd	35000	Rs. 300
S Ltd	29000	Rs. 380

C Ltd	40000	Rs. 500
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The total number of units of scheme XYZ are 10 Lakh. The Scheme XYZ has accrued expenses of Rs. 2,50,000 and other Liabilities of Rs 2,00,000. Calculate the NAV per unit of the scheme XYZ

Answer:

Company	No. of Shares	Market Price Per Share	Value of Assets/ Liabilities
N Ltd	25000	Rs. 20	500000
D Ltd	35000	Rs. 300	10500000
S Ltd	29000	Rs. 380	11020000
C Ltd	40000	Rs. 500	20000000

Accrued Expenses	(250000)
Liabilities	(200000)
Net Assets	41570000
No. of Units	1000000
NAV	41.57

10. The redemption price of mutual fund unit is ` 48 while the front end load and back end load charges are 2% and 3% respectively. Compute:

- NAV per unit
- Public offer price of the unit.

Answer:

Redemption Price = NAV (1+ Back End Load) 48 = NAV (1+0.03)48 = 48x1.03 NAV= Rs. 49.44	Public Offer Price = N A V (1- Front End Load) = 49.44 (1-0.02) = 49.44 0.98 Public Offer Price = Rs. 50.45
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11. Which risks a mutual fund can face leading to non-satisfactory performance

Answer:

Mutual funds may face the following risks, leading to non-satisfactory performance:

- Excessive diversification of portfolio, losing focus on the securities of the key segments.
- Too much concentration on blue-chip securities.
- Necessity to effect high turnover through liquidation of portfolio resulting in large payments of brokerage and commission.
- Poor planning of investment returns.
- Unresearched forecast on income, profits and Government policies.
- Fund managers being unaccountable for poor results.
- Failure to identify clearly the risk of the scheme as distinct from risk of the market.
- Under performance in comparison to peers.

12. What are the avenues available to Indian Mutual Funds for investment abroad?

Answer:

Indian Mutual Funds registered with SEBI are permitted to invest in the following:

- ADRs and GDRs;
- Equity of overseas company;
- Foreign debt securities;
- Money market instruments;
- Government securities;
- Derivative;

- vii. Short - term deposits;
- viii. Units issued by overseas mutual funds.

13. Explain the provisions regarding submission of documents

Answer:

The listed entity is required to intimate to the recognised stock exchange, 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 SEBI (Mutual Funds) Regulations, 1996 and directions issued there under.

The listed entity is also required to intimate to the recognised stock exchange 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; and
- d) any prohibitory orders restraining the listed entity from transferring units registered in the name of the unit holders.

CHAPTER 18 - COLLECTIVE INVESTMENT SCHEME

1. What are the registration provisions under SEBI Act, 1992 for Collective Investment Management scheme?

Answer:

Section 12 (1B) of the SEBI Act states that-

“No person shall sponsor or cause to be sponsored or carry on or caused to be carried on any venture capital funds or collective investment schemes including mutual funds, unless he obtains a certificate of registration from the SEBI in accordance with the regulations”.

With this provision, a ban was imposed on a person carrying on any CIS, unless a certificate of registration is obtained in accordance with the regulations framed by SEBI.

2. Explain the provisions regarding money to be kept in separate account and utilization of money under CIS.

Answer:

- 1) The subscription amount received should be kept in a separate bank account in the name of the collective investment scheme and utilized for –
 - a) adjustment against allotment of units only after the trustee has received a statement from the registrars to the issue and share transfer agent regarding minimum subscription amount, as stated in the offer document, having been received from the public, or
 - b) for refund of money in case minimum subscription amount, as stated in the offer document, has not been received or in case of over-subscription.
- 2) The minimum subscription amount as specified in the offer document couldn't be less than the minimum amount, as specified by the appraising agency, needed for completion of the project for which the collective investment scheme is being launched.
- 3) The moneys credited to the account of the collective investment scheme should be utilised for the purposes of the scheme and as specified in the offer document.
- 4) Any unutilised amount lying in the account of the collective investment scheme should be invested in the manner as disclosed in the offer document.

3. What are the general obligations of collective investment management company?

Answer:

Following are the general obligations of collective investment management company:

1. **Maintain proper books of account and records, etc:**
 - a) Every CIMC shall keep and maintain proper books of account, records and documents, for each scheme and in particular give a true and fair view of the state of affairs of CIS, and intimate to the SEBI and the trustees the place where such books of account, records and documents including computer records are maintained.
 - b) Every CIMC shall continue to maintain and preserve, for a period of five years after the close of each CIS, its books of account, records, computer data and documents.
2. **Financial year:** The financial year for all the collective investment schemes shall end as on March 31 of each year
3. **Dispatch of warrants and proceeds:** The CIMC shall-
 - a) Dispatch to the unit holders the warrants within 42 days of the declaration of the interim returns.
 - b) Dispatch the redemption proceeds within 30 days of the closure or the winding up of the collective investment scheme.
4. **Statement of Accounts and Annual Report:** The CIMC shall:
 - a) not exceed the ceilings on expenses or fees in respect of the collective investment scheme. The expense incurred in case of Initial Issue Expenses and Annual recurring expenses shall not exceed 2.00 percent of the funds raised under the collective investment scheme. However, other direct costs, if any, which are incidental to the operation of the collective investment scheme may be charged to scheme, as may be approved by trustee;

- b) prepare the accounts of the collective investment scheme in accordance with accounting norms as specified in Part II of the Ninth Schedule;
- c) comply with format of balance sheet and profit and loss accounts as specified in Part III of the Ninth Schedule. An annual report and annual statement of accounts of each collective investment scheme shall be prepared in respect of each financial year. Every CIMC shall within two months from the date of closure of each financial year forward to the SEBI a copy of the Annual Report.
5. **Auditor's Report:** Every collective investment scheme shall have the annual statement of accounts audited by an auditor who is empanelled with the SEBI and who is not in any way associated with the auditor of the Collective Investment Management Company. The auditor shall be appointed by the trustee. The auditor shall forward his report to the trustee and such report shall form part of the Annual Report.
6. **Publication of Annual Report and summary thereof:** The collective investment scheme wise annual report or an abridged form thereof shall be published in a national daily as soon as possible but not later than two calendar months from the date of finalization of accounts.
7. **Periodic and continual disclosures:** The Collective Investment Management Company and the trustee, shall make such disclosures or submit such documents as they may be called upon by the SEBI to make or submit. The Collective Investment Management Company on behalf of the collective investment scheme shall furnish the following periodic reports to the SEBI, namely:
 - a) copies of the duly audited annual statements of account including the balance sheet and the profit and loss account in respect of each collective investment scheme, once a year
 - b) a copy of quarterly unaudited accounts;
 - c) a quarterly statement of changes in net assets for each of the collective investment schemes.
8. **Quarterly disclosures:** A Collective Investment Management Company, on behalf of the collective investment scheme shall before the expiry of one month from the close of each quarter publish its unaudited financial results in one daily newspaper having nationwide circulation and, in a newspaper, published in the language of the region where the Head Office of the Collective Investment Management Company is situated.
9. **Disclosures to the investors:** The trustee shall ensure that the Collective Investment Management Company shall make such disclosures to the unit holders as are essential in order to keep them informed about any matter which may have an adverse bearing on their investments.
10. **Calling of meeting of unit holders, transfer and transmission of units:** The calling of meeting of unit holders as well as transfer and transmission of units of collective investment scheme shall be as per the provisions of the Eighth Schedule.

4. What are the key aspects for launching collective investment scheme?

Answer:

Following are the key aspects for launching collective investment scheme:

- 1) The company floating CIS shall have to seek registration with SEBI as Collective Investment Management Company (CIMC).
- 2) CIS shall be constituted as a two-tiered structure comprising of a trust and a CIMC.
- 3) At the time of application for Registration as CIMC, these entities should have a minimum net worth of Rs. 3 crores which shall have to be increased to Rs. 5 crores within three years from the date of grant of registration.
- 4) **Compulsory Filing of Offer Documents:** Every collective investment Scheme shall have to file offer documents with SEBI containing adequate disclosures to enable the investors to take informed investment decisions.
- 5) **Mandatory Rating Requirement:** Each collective investment scheme shall have to obtain a rating from recognized credit rating agencies such as CRISIL Limited, Fitch Ratings India Private Limited, ICRA Limited, CARE, SMERA.
- 6) The projects being undertaken must also be appraised by an empaneled appraising agency such as Agricultural Finance Corporation Ltd., North Eastern Development Finance Corporation Ltd. (NEDFI), Indian Institute of Forest Management, The Forest Research Institute (FRI).

- 7) **No Assured Return:** The collective investment schemes are prohibited from guaranteeing assured returns. Indicative returns, if any, provided by the collective investment scheme shall be based on the projections in the appraisal report.
- 8) **Advertisement Code:** Advertisements in respect of every collective investment scheme shall have to conform to the SEBI's advertisement code.
- 9) **Subscription Period:** No collective investment scheme shall be kept open for subscription for a period of more than 90 days. The collective investment schemes shall be close ended in nature. The collective investment schemes must indicate the minimum and maximum amount proposed to be raised over this period.
- 10) **Duration of collective investment Schemes:** The duration of the collective investment schemes shall be for a minimum period of 3 years.
- 11) **Insurance:** Compulsory Insurance cover for the assets of the collective investment scheme and personal indemnity cover for the CIMC shall be obtained.
- 12) **Listing:** Units issued under the Collective Investment Schemes are to be compulsorily listed on recognized stock exchanges.
- 13) **Accounting/Valuation norms:** Accounting/valuation norms as stipulated shall have to be followed by Collective Investment Schemes.