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## CHAPTER 1 – SECURITIES CONTRACTS (REGULATION) ACT, 1956

**June 2023**

**1. Corporates Advisors Ltd. is a listed company. The stock exchange asked certain information about shareholding pattern etc., which the company could not provide even after a further opportunity was given to the company to furnish such information as the company did not maintain the relevant records. What are the penalties leviable against the company under Securities Contracts (Regulation) Act, 1956? Will your answer differ, if the information is sought by the SEBI (state the relevant provision)?**

**Ans -** According to section 23A of the Securities Contracts (Regulation) Act, 1956, any person, who is required under this Act or any rules made thereunder,—

(a) to furnish any information, document, books, returns or report to a 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, shall be liable to a penalty which shall not be less than ₹1 lakh but which may extend to ₹ 1 lakh for each day during which such failure continues subject to a maximum of ₹ 1 crore for each such failure.

(b) to maintain books of account or records, as per the listing agreement or conditions, or bye- laws of a recognised stock exchange, fails to maintain the same, shall be liable to a penalty which shall not be less than ₹ 1 lakh but which may extend to ₹ 1 lakh for each day during which such failure continues subject to a maximum of ₹ 1 crore.

The answer will not differ as the penalty provisions are same in both the cases in the present scenario, if the information sought by stock exchange or SEBI.

**2. Shakti is aggrieved by the order of the Securities Appellate Tribunal (SAT) and intend to appeal before appropriate authority/court. Briefly explain the procedure and time limit for filing of appeal.**

**Ans -** Section 15Z of the SEBI Act, 1992 or/and Section 22F of the Securities Contracts (Regulation) Act, 1956, lay down that any person aggrieved by any decision or order of the Securities Appellate Tribunal may file an appeal to the Supreme Court within 60 days from the date of communication of the decision or order of the Securities Appellate Tribunal to him on any question of law arising out of such order.

It has been provided that the Supreme Court may, if it is satisfied that the applicant was prevented by sufficient cause from filing the appeal within the said period, allow it to be filed within a further period not exceeding 60 days.

Procedure for filing appeal to the Supreme Court:

- Obtaining a copy of the Securities Appellate Tribunal order;
- Preparation of Appeal;
- Filing of appeal to the Supreme Court.

**June 2022**

**(a) Akilesh, one of the Executive Director of a listed company has violated the provisions of Insider Trading Regulations of SEBI. The Adjudicating Officer has imposed penalty of 5 lakh. The Executive Director did not pay the amount within the stipulated time as stated in the order . Examine the recourses available with the Adjudicating Officer for recovery of amount under the Securities Contracts (Regulation) Act, 1956**

**Ans-**

Section 23JB of the Securities Contracts (Regulation) Act, 1956 deals with recovery of amounts. If a person fails to pay the penalty imposed under this Act or fails to comply with a direction of disgorgement order issued under section 12A or fails to pay any fees due to the SEBI, the Recovery Officer may draw up under his signature a statement in the specified form specifying the amount due from the person and shall proceed to recover from such person the amount specified in the certificate by one or more of the following modes, namely:—

- (a) attachment and sale of the person's movable property;
- (b) attachment of the person's bank accounts;
- (c) attachment and sale of the person's immovable property;
- (d) arrest of the person and his detention in prison;
- (e) appointing a receiver for the management of the person's movable and immovable properties.

The Recovery Officer shall be empowered to seek the assistance of the local district administration while exercising the powers as stated above. Therefore, Adjudicating Officer can exercise any of the above recourses for recovery of amount from Akhilesh.

**Alternate Answer**

The recourses available with Adjudicating Officer for Recovery of amount for violation of the provisions of Insider Trading Regulations of SEBI are covered under Section 28A of the SEBI Act, 1992.

Section 28A of the Securities and Exchange Board of India Act, 1992, provides that if a person fails to pay the penalty imposed under this Act or fails to comply with any direction of the SEBI for refund of monies or fails to comply with a direction of disgorgement order issued under section 11B or fails to pay any fees due to the SEBI, the Recovery Officer may draw up under his signature a statement in the specified form specifying the amount due from the person and shall proceed to recover from such person the amount specified in the certificate by one or more of the following modes, namely:—

- (a) attachment and sale of the person's movable property;
- (b) attachment of the person's bank accounts;
- (c) attachment and sale of the person's immovable property;
- (d) arrest of the person and his detention in prison;
- (e) appointing a receiver for the management of the person's movable and immovable properties.

The Recovery Officer shall be empowered to seek the assistance of the local district

administration while exercising the powers as stated above. Therefore, Adjudicating Officer can exercise any of the above recourses for recovery of amount from Akhilesh.

### **DECEMBER 2019**

**1) ST Ltd. applied for listing of instruments in a recognized stock exchange. However, permission was refused by the stock exchange. Can the company appeal to SAT against such refusal? Explain. (5 marks)**

**SOLUTION:** ST Ltd. has right to appeal to Securities Appellate Tribunal (SAT) against refusal of stock exchanges to list securities of public companies. As per Regulation 22A of Securities Contracts (Regulation) Act, 1956, where a recognized stock exchange, acting in pursuance of any power given to it by its bye-laws, refuses to list the securities of any company, the company shall be entitled to be furnished with reasons for such refusal, it may

(a) Within 15 days from the date on which the reasons for such refusal are furnished to it, or

(b) Where the stock exchange has omitted or failed to dispose of, within the time specified in section 40 of the Companies Act, 2013, the application for permission for the shares or debentures to be dealt with on the stock exchange, within fifteen days from the date of expiry of the specified time or within such further period, not exceeding one month as the Securities Appellate Tribunal may, on sufficient cause being shown, allow appeal to the SAT having jurisdiction in the matter against such refusal, omission or failure, the Securities Appellate Tribunal may, after giving the stock exchange, an opportunity of being heard, -

(i) vary or set aside the decision of the stock exchange; or

(ii) where the stock exchange has omitted or failed to dispose of the application within the specified time, grant or refuse the permission, and where the SAT sets aside the decision of the recognized stock exchange or grants the permission, the stock exchange shall act in conformity with the orders of the Securities Appellate Tribunal.

Every appeal shall be in such form and be accompanied by such fee as may be prescribed. The Securities Appellate Tribunal shall send a copy of every order made by it to the SEBI and parties to the appeal.

The appeal filed before the SAT shall be dealt with by it as expeditiously as possible and endeavour shall be made by it to dispose of the appeal finally within six months from the date of receipt of the appeal.

**(2) "A recognized stock exchange may frame rules/amend rules made by it to provide for all or any of the matters specified therein." Describe them.(4 marks)**

**SOLUTION:** Power of recognised stock exchanges to make/amend bye-laws As per Section 9 of the Securities Contracts (Regulations) Act, 1956 any recognized stock exchange may, subject to the previous approval of SEBI, make bye-laws for the regulation and control of contracts. In particular, and without prejudice to the generality of the foregoing power, such bye-laws may provide for:

(a) the opening and closing of markets and the regulation of the hours of trade.

(b) a clearing house for the periodical settlement of contracts and differences thereunder, the delivery of and payment for securities, the passing on of delivery orders and the regulation and maintenance of such clearing house.

(c) the regulation or prohibition of blank transfers.

- (d) the number and classes of contracts in respect of which settlements shall be made or differences paid through the clearing house.
- (e) the regulation, or prohibition of budlas or carry-over facilities.
- (f) the fixing, altering, or postponing of days for settlements.
- (g) the determination and declaration of market rates, including the opening, closing, highest and lowest rates for securities.
- (h) the listing of securities on the stock exchange, the inclusion of any security for the purpose of dealings and the suspension or withdrawal of any such securities, and the suspension or prohibition of trading in any specified securities.
- (i) the method and procedure for the settlement of claims or disputes, including settlement by arbitration.
- (j) the levy and recovery of fees, fines, and penalties.
- (k) the regulation of the course of business between parties to contracts in any capacity.
- (l) the fixing of a scale of brokerage and other charges.
- (m) the emergencies in trade which may arise, whether as a result of pool or syndicated operations or concerning or otherwise, and the exercise of powers in such emergencies including the power to fix maximum and minimum prices for securities.
- (n) the making, comparing, settling, and closing of bargains.
- (o) the regulation of dealings by members for their own account.
- (p) the separation of the functions of jobbers and brokers.
- (q) the limitations on the volume of trade done by any individual member in exceptional circumstances.
- (r) the obligation of members to supply such information or explanation and to produce such documents relating to the business as the governing body may require.

Section 7A of the Securities Contracts (Regulation) Act, 1956, stipulates that a recognized stock exchange may make rules or amend any rules made by it to provide for all or any of the following matters, namely,

- (a) the restriction of voting rights to members only in respect of any matter placed before the stock exchange at any meeting.
- (b) the regulation of voting rights in respect of any matter placed before the stock exchange at any meeting so that each member may be entitled to have one vote only, irrespective of his share of the paid-up equity capital of the stock exchange;
- (c) the restriction on the right of a member to appoint another person as his proxy to attend and vote at a meeting of the stock exchange; and
- (d) such incidental, consequential and supplementary matters as may be necessary to give effect to any of the matters specified in clauses (a) (b) and (c).

Powers have been delegated concurrently to SEBI also

## **JUNE 2019**

**(1) 'A stock exchange on its own can delist any security thereon'. Explain how Recognized Stock Exchange delists any securities listed thereon under Securities Contracts (Regulations) Rules, 1957. (5 MARKS)**

**SOLUTION:** Rule 21 of the Securities Contracts (Regulations) Rules, 1957 deals with the delisting of securities. A recognized stock exchange may, without prejudice to any other action that may be taken under the Act or under any other law for the time being in force, delist any securities listed thereon on any of the following grounds in accordance with the regulations made by the Securities and Exchange Board of India, namely:—

- (a) the company has incurred losses during the preceding three consecutive years, and it has negative net worth;
- (b) trading in the securities of the company has remained suspended for a period of more than six months.
- (c) the securities of the company have remained infrequently traded during the preceding three years.
- (d) the company or any of its promoters or any of its director has been convicted for failure to comply with any of the provisions of the Act or the Securities and Exchange Board of India Act, 1992 or the Depositories Act, 1996 or rules, regulations, agreements made thereunder, as the case may be and awarded a penalty of not less than rupees one crore or imprisonment of not less than three years;
- (e) the addresses of the company or any of its promoter or any of its directors, are not known or false addresses have been furnished or the company has changed its registered office in contravention of the provisions of the Companies Act, 2013;
- (f) shareholding of the company held by the public has come below the minimum level applicable to the company as per the listing agreement under the Act and the company has failed to raise public holding to the required level within the time specified by the recognized stock exchange. No securities shall be delisted unless the company concerned has been given a reasonable opportunity of being heard.

## **DECEMBER 2018**

**(2) What are the provisions for continuous listing requirement under Securities Contracts (Regulation) Rules, 1957? List any six methods for achieving minimum public shareholding by a listed company. (4 marks)**

**SOLUTION:** The continuous listing requirement has been prescribed under Rule 19A(1) of the Securities Contracts (Regulation) Rules ("SCRR"), 1957, which stipulates that every listed company other than public sector company shall maintain public shareholding of at least 25%. However, any listed company which has public shareholding below 25%, shall increase its public shareholding to at least twenty five per cent, within a period of four years from the date of commencement of amendment to the said rules in 2014, in the manner specified by SEBI.

SEBI has vide its Circular dated November 30, 2015 and February 22, 2018 has prescribed the various methods that may be used by a listed entity to achieve compliance with the minimum public shareholding requirements mandated under rules 19(2) (b) and 19A of the SCRR read with regulation 38 of the SEBI Listing Regulations, 2015.

The following are the various methods:

- (i) Issuance of shares to public through prospectus.
- (ii) Offer for sale of shares held by promoters to public through prospectus.
- (iii) Sale of shares held by promoters through the secondary market in terms of SEBI circular CIR/MRD/DP/05/2012 dated February 1, 2012.
- (iv) Institutional Placement Programme (IPP) in terms of Chapter VIIIA of SEBI (Issue of Capital and Disclosure Requirements) Regulations, 2009.
- (v) Rights Issue to public shareholders, with promoter/promoter group shareholders forgoing their entitlement to equity shares that may arise from such issue.
- (vi) Bonus Issues to public shareholders, with promoter/promoter group shareholders forgoing their entitlement to equity shares that may arise from such issue.
- (vii) Sale of shares held by the promoters/promoter group up to 2% of the total paid-up equity share capital of the listed entity in the open market, subject to the conditions specified.
- (viii) Allotment of eligible securities through Qualified Institutions Placement in terms of Chapter VIII of the Securities and Exchange Board of India (Issue of Capital and Disclosure Requirements) Regulations, 2009

**(2) Bombay Stock Exchange Ltd. had suspended trading in shares of XYZ Ltd. for violating conditions of listing agreement. The company has now complied with the listing regulations requirements. By referring to SEBI circular/regulations, discuss the criteria for suspension of the trading in the shares of the listed entities. (4 marks)**

**SOLUTION:** SEBI vide its Circular dated May 3, 2018, prescribed the criteria for suspension of the trading in the shares of the listed entities which are as follows:

Failure to comply with respect to:

- (i) board composition including appointment of woman director for two consecutive quarters.
- (ii) constitution of audit committee for two consecutive quarters.
- (iii) submission of corporate governance compliance report for two consecutive quarters.
- (iv) submission of the shareholding pattern for two consecutive quarters.
- (v) submission of financial result for two consecutive quarters.
- (vi) submission of Annual Report for two consecutive financial years.
- (vii) submit information on the reconciliation of shares and capital audit report, for consecutive quarters.
- (viii) receipt of the notice of suspension of trading of that entity by any other recognized stock exchange or any or all the above grounds.

**December 2021**

**1) The stock exchange wants to transfer the duties and functions of a clearing house to a clearing corporation. Is it possible to do so ? Explain the purpose if any, it serves.**

**SOLUTION:** Section 8A(1) of the Securities Contracts (Regulation) Act, 1956 provides that a recognised stock exchange may, with the prior approval of SEBI, transfer the duties and functions of a clearing house to a clearing corporation, being a company incorporated under the Companies Act, 2013, for the purpose of –

- (a) the periodical settlement of contracts and differences thereunder;
- (b) the delivery of, and payment for, securities;
- (c) any other matter incidental to, or connected with, such transfer.

## CHAPTER 2 – SECURITIES AND EXCHANGE BOARD OF INDIA ACT, 1992

**June 2022**

(a) The GreenWood Ltd. had launched a scheme named as Malamal scheme. The scheme entailed a one-time payment of ₹10,000 in lieu of a unit of 10 Teakwood trees with a holding period of 20 years and on maturity, the contributor/investor have an option to get the teak trees or the realised sale proceeds thereof. The scheme was launched by the company for two calendar years. Within such short span of time, the scheme mobilized ₹2 crore from 2,000 contributors/ investors. The scheme was being carried on without obtaining registration from SEBI. Referring to the SEBI Regulations, answer the following :

- (i) State the provisions under which the registration was required.
- (ii) What are the powers of SEBI in this regard ?
- (iii) What should be the minimum duration of the scheme?

**Ans-**

(i) Section 11AA (2) of the SEBI Act, 1992 provides that any scheme of arrangement shall be a collective investment scheme made or offered by any person under which, --

- the contributions, or payments made by the investors, by whatever name called, are pooled and utilized for the purposes of the scheme or arrangement;
- the contributions or payments are made to such scheme or arrangement by the investors with a view to receive profits, income, produce or property, whether movable or immovable, from such scheme or arrangement;
- the property, contribution or investment forming part of scheme or arrangement, whether identifiable or not, is managed on behalf of the investors;
- the investors do not have day-to-day control over the management and operation of the scheme or arrangement.

In view of the above, the Malamal scheme is in the nature of Collective Investment Scheme in the given case.

As per Section 12(1B) of the SEBI Act, 1992, 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. Further, Regulation 4 of the SEBI (Collective Investment Schemes) Regulations, 1999 provides that any person proposing to carry any activity as a Collective Investment Management Company on or after the commencement of these regulations shall make an application to the SEBI for the grant of registration.

(ii) Directions by the SEBI

The SEBI may, in the interests of the securities market and the investors, give such directions as it deems fit in order to ensure effective observance of these regulations, including directions:

- (a) requiring the person concerned not to collect any money from investors or to launch any collective investment scheme;
- (b) prohibiting the person concerned from disposing of any of the properties of the collective investment scheme acquired in violation of these regulations;
- (c) requiring the person concerned to dispose of the assets of the collective investment scheme in a manner as may be specified in the directions;
- (d) requiring the person concerned to refund any money or the assets to the concerned investors along with the requisite interest or otherwise, collected under the collective investment scheme;
- (e) prohibiting the person concerned from operating in the capital market or from accessing the capital market for a specified period.

The SEBI has issued directions pursuant to the aforesaid regulations in the matter of Dairyland Plantations (India) Limited.

Further, as per Section 15D of the SEBI Act, 1992, if any person, who is required under SEBI Act or any rules or regulations made thereunder to obtain a certificate of registration from the SEBI for sponsoring or carrying on any collective investment scheme, sponsors or carries on any collective investment scheme, without obtaining such certificate of registration, he shall be liable to a penalty which shall not be less than one lakh rupees but which may extend to one lakh

rupees for each day during which he sponsors or carries on any such collective investment scheme subject to a maximum of one crore rupees.

(iii) The duration of the collective investment scheme shall not be of less than three calendar years. The instant scheme is for two calendar year, which is in contravention to the SEBI (Collective Investment Schemes) Regulations, 1999.

## **DECEMBER 2019**

**1) Lalji, aggrieved by an order passed by SEBI is desirous of making an appeal before SAT. He requested you as a consultant to prepare a note to know the appeal procedure. (4 marks)**

**SOLUTION:** In order to afford proper appellate remedies, SEBI Act, 1992 provides for the establishment of the Securities Appellate Tribunals (SAT) to consider appeals against the SEBI's orders, or penalties.

Section 15T and 15U of SEBI Act, 1992 deal with the appeal procedure and powers of Securities Appellate Tribunal.

Every appeal shall be filed within a period of forty-five days from the date on which a copy of the order made by the SEBI or the Adjudicating Officer the Insurance Regulatory and Development Authority or the Pension Fund Regulatory and Development Authority, as the case may be, is received by him and it shall be in such form and be accompanied by such fee as prescribed.

The Securities Appellate Tribunal may entertain an appeal after the expiry of the said period of forty-five days if it is satisfied that there was sufficient cause for not filing it within that period.

On receipt of an appeal the Securities Appellate Tribunal may, after giving the parties to the appeal, an opportunity of being heard, pass such orders thereon as it thinks fit, confirming, modifying or setting aside the order appealed against.

The Securities Appellate Tribunal shall send a copy of every order made by it to the SEBI or the Insurance Regulatory and Development Authority or the Pension Fund Regulatory and Development Authority, as the case may be, the parties to the appeal and to the concerned Adjudicating Officer.

The appeal filed before the Securities Appellate Tribunal shall be dealt with by it as expeditiously as possible and endeavour shall be made by it to dispose of the appeal finally within six months from the date of receipt of the appeal.

Section 15U of SEBI Act, 1992 lays down that the Securities Appellate Tribunal shall not be bound by the procedure laid down by the Code of Civil Procedure, 1908, but shall be guided by the principles of natural justice and subject to the other provisions of this Act and of any rules, the Securities Appellate Tribunal shall have powers to regulate their own procedure including the places at which they shall have their sittings.

Alternatively, as per Section 29 read with sections 15T and 15U of SEBI Act, 1992, the Central Government has made the Securities Appellate Tribunal (Procedure), Rules, 2000 shall also be followed.

## **JUNE 2019**

**1) SEBI has been given necessary autonomy and authority to regulate and develop an orderly market. Elucidate the statement in the light of statutory powers vested with SEBI. (4 Marks)**

**SOLUTION:** With regulatory jurisdiction extended over the corporates with respect to issue of capital and transfer of securities, in addition to all intermediaries and persons associated with securities market, SEBI is vested with following statutory powers:

1. protecting the interests of investors in securities,
2. promoting the development of the securities market, and
3. regulating the securities market.

Its regulatory jurisdiction extends over corporates in the issuance of capital and transfer of securities, in addition to all intermediaries and persons associated with securities market. SEBI can:

- specify the matters to be disclosed and the standards of disclosure required for the protection of investors in respect of issues.
- issue directions to all intermediaries and other persons associated with the securities market in the interest of investors or of orderly development for securities market; and
- conduct enquiries, audits, and inspection of all concerned and adjudicate offences under the Act.

In short, it has been given necessary autonomy and authority to regulate and develop an orderly securities market.

## **DECEMBER 2018**

**1) Hon'ble Justice A, a retired Chief Justice of a High Court, attained the age 62 years on December 31, 2017. The Central Government had appointed him as the Presiding Officer of the Securities Appellate Tribunal (SAT) with effect from January 1, 2018. You are required to state with reference to SEBI Act, 1992, (a) the term for which he may be appointed as Presiding Officer of the SAT (b) Whether he can be re-appointed as such and remains as Presiding Officer of the Securities Appellate Tribunal ? (4 marks)**

**SOLUTION:** According to Section 15N of SEBI Act, 1992, the Presiding Officer or every Judicial or Technical Member of the Securities Appellate Tribunal shall hold office for a term of five years from the date on which he enters upon his office, and shall be eligible for reappointment for another term of maximum 5 years. However, no Presiding Officer or the Judicial or Technical Member shall hold office after he has attained the age of seventy years.

In the given case, Hon'ble Justice A has already attained age of 62 years at the time of first appointment as Presiding Officer of SAT, hence he can be appointed for first five years. He can be also re-appointed further but only for 3 years, as after further 3 years he will attain the age of 70 years.

## **December 2020**

**1) “SEBI may take any of the measures either pending investigation or inquiry or on completion of such investigation.” Enumerate such measures in the light of the provisions of the SEBI Act. (4 marks)**

**SOLUTION:** As per Section 11(4) of SEBI Act, 1992, the SEBI may, by an order or for reasons to be recorded in writing, in the interest of investors or securities market take any of the following measures either pending investigation or inquiry or on completion of such investigation or inquiry namely:

- a. suspend the trading of any security in a recognised Stock Exchange
- b. restrain persons from accessing the securities market and prohibit any person associated with securities market to buy, sell or deal in securities.
- c. suspend any office-bearer of any stock exchange or self-regulatory organisation from holding such position.
- d. impound and retain the proceeds or securities in respect of any transaction which is under investigation
- e. attach, for a period not exceeding 90 days, bank accounts for other property of any intermediary or any person associated with the securities market in any manner involved in violation of any of the provisions of this Act, or the rules or regulations made thereunder;
- f. direct any intermediary or any person associated with the securities market in any manner not to dispose of or alienate an asset forming part of any transaction which is under investigation.

**2) Diamond Company Ltd. entered into listing agreement on 21st May, 2018 as per SEBI (LODR) Regulations, 2015 with Bombay Stock Exchange (BSE). The Company is planning to conduct a Board Meeting of its Directors on 28th June 2018 for consideration of its Annual Financial Results. Whether the company needs to give prior intimation to the BSE?**

**Explain the matters for which prior intimation of the Board Meeting shall be given to the BSE under SEBI Regulations. (4 marks)**

**SOLUTION:** Prior Intimations (Regulation 29 of SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015)

Yes, Diamond Company Limited shall give prior intimation to BSE about its annual financial results.

As per Regulation 29, the matters for which the prior intimation of the Board Meeting shall be given to the BSE are as follows:

- a) Financial Result viz. quarterly, half yearly or annual;
- b) Proposal for Buy-back of Securities
- c) Proposal for Voluntary delisting by the listed entity from the stock exchange(s)
- d) Fund raising by way of FPO, Right Issue, ADR, GDR, QIP, FCCB, Preferential Issue, debt issue or any other method and for determination of issue price. However, intimation shall also be given in case of any annual general meeting or extraordinary general meeting or postal ballot that is proposed to be held for obtaining shareholder approval for further fund raising indicating type of issuance.
- e) Declaration/recommendation of dividend
- f) Proposal for declaration of Bonus securities etc.

**3) SEBI has imposed a penalty of ₹25 crore on Sunset Company Ltd. However, due to problem of liquidity, the company is unable to pay the amount of penalty. Explain, how the amount can be recovered under the provisions of SEBI Act, 1992. (4 marks)**

**SOLUTION:** Section 28A (1) of the SEBI Act, 1992 deals with recovery of amounts. If a person:

- i. fails to pay the penalty imposed by adjudicating officer or
- ii. fails to comply with any direction of SEBI for refund of monies or
- iii. fails to comply with a direction of disgorgement order under Section 11 B) or
- iv. fails to pay any fees due to SEBI,

The Recovery Officer may draw up under his signature a statement in a specified form specifying the amount due from the person and shall proceed to recover from such person the amount specified in the certificate by one or more of the following modes, namely:-

- a. attachment and sale of the person's movable property;
- b. attachment of the person's bank accounts;
- c. attachment and sale of the person's immovable property;
- d. arrest of the person and his detention in prison;
- e. appointment a receiver for the management of the person's movable and immovable properties.

### **June 2021**

**1) Under what circumstances and how the recovery officer will proceed to recover the amount of penalty etc. imposed by adjudicating officer under the SEBI Act, 1992 ? (4 marks)**

**SOLUTION:** Section 28A of the SEBI Act, 1992 deals with recovery the amount of Penalty by Recovery Officer. If a person-

- fails to pay the penalty imposed under this act or
- fails to comply with any direction of SEBI for refund of monies or
- fails to comply with a direction of disgorgement order issued under Section 11B or
- fails to pay any fees due to SEBI, the Recovery Officer may draw up under his signature a statement in the specified form specifying the amount due from the person.

The Recovery Officer shall proceed to recover from such person the amount specified in the certificate by one or more of the following modes, namely:

- a) attachment and sale of the person's movable property;
- b) attachment of the person's bank accounts;
- c) attachment and sale of the person's immovable property;
- d) arrest of the person and his detention in prison;
- e) appointing a receiver for the management of the person's movable and immovable properties.

**2) Wadhvani Enterprises Limited, an unlisted company, has decided to bring an initial public offer and filed a draft offer document with SEBI. The company is not able to correctly interpret a circular issued by SEBI. The managing director of the Company wants to seek informal guidance under SEBI Informal Guidance Scheme. Ramesh, director of the company is of a view that since the company is not yet listed so company cannot seek informal guidance from SEBI. Being a company secretary, advise on the following matters :**

- (i) Who can apply for informal guidance ? Whether company can apply for informal guidance in the given situation ?**
- (ii) What are the matters on which informal guidance cannot be sought ? (5 marks)**

**SOLUTION:** The following persons may make a request for informal Guidance under the SEBI (Informal Guidance) Scheme, 2003:

- a) Any intermediary registered with the SEBI;
- b) Any listed company;
- c) Any company which intends to get any of its securities listed and which has filed either a listing application with any stock exchange or a draft offer document with the SEBI or the Central Listing authority;
- d) Any mutual fund trustee company or asset management company;
- e) Any acquirer or prospective acquirer under the SEBI (Substantial Acquisition of Shares & Takeovers) Regulations, 1997. [Now the SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 2011]

In the given case, since Wadhvani Enterprises Limited is an unlisted company and filed draft offer document with SEBI, therefore, it can apply to SEBI under informal guidance scheme.

- (ii) With respect to following matter informal guidance cannot be sought:
  - a) Those which are general and those which do not completely and sufficiently describe the factual situation;
  - b) Those which involve hypothetical situations;
  - c) Those requests in which the requestor has no direct or proximate interest;
  - d) Where the applicable legal provisions are not cited;
  - e) Where a no-action or interpretive letter has already been issued by that or any other Department on a substantially similar question involving substantially similar facts, as that to which the request relates;
  - f) Those cases in which investigation, enquiry or other enforcement action has already been initiated;
  - g) Those cases where connected issues are pending before any Tribunal or Court and on issues which are subjudice; and
  - h) Those cases where policy concerns require that the Department does not respond.

### **December 2021**

**1) M/s. XYZ company Ltd. aggrieved by the decision of Adjudicating Officer under the SEBI Act, 1992 moved to civil court to contest the case. Is the action of the company correct in light of SEBI provisions ? Give your views and suggest to the management the action to be initiated by XYZ Ltd.**

**SOLUTION:** Section 20A of the SEBI Act, 1992 lays down that no order passed by the SEBI or the adjudicating officer under this Act shall be appealable except as provided in section 15T or section 20 and no civil court shall have jurisdiction in respect of any matter which the SEBI (or the adjudicating officer) is empowered by, or under, this Act to pass any order and no injunction shall be granted by any court or other authority in respect of any action taken or to be taken in pursuance of any order passed by the SEBI or the adjudicating officer by, or under, the SEBI Act. Any person aggrieved by an order of the SEBI made or by an order made by an adjudicating officer under the SEBI Act or by an order of the Insurance Regulatory and

Development Authority (IRDA) or the Pension Fund Regulatory and Development Authority (PFRDA) may prefer an appeal to a Securities Appellate Tribunal (SAT) having jurisdiction in the matter within a period of forty-five days from the date on which a copy of the order made by the SEBI or the Adjudicating Officer or the IRDA or the PFRDA as the case may be.

In view of the above provisions, the company should move to the Securities Appellate Tribunal (SAT).

**2) Pinki Ltd. being a listed company has not complied the requirements of listing agreement with the stock exchange. The stock exchange decided for compulsory delisting of the securities from its trading platform. Answer the following :**

**(a) Whether once listed, stock exchange can go for compulsory delisting of securities of Pinki Ltd. ?**

**(b) What are the provisions for constitution of panel ?**

**(c) What time period will be given for representation to Pinki Ltd. ?**

**SOLUTION:** a) Compulsory delisting refers to permanent removal of securities of a listed company from a stock exchange as a penalizing measure at the behest of the stock exchange for not making submissions/comply with various requirements set out in the Listing agreement within the time frames prescribed. As per Regulation 22(1) of the SEBI (Delisting of Equity Shares) Regulations, 2009, a recognized stock exchange may, by order, delist any equity shares of a company on any ground prescribed in the rules made under section 21A of the Securities Contracts (Regulation) Act, 1956.

Therefore, the stock exchange as a penalizing measure for not complying with various requirements set out in the Listing agreement within the time frames prescribed can go for compulsory delisting of securities of Pinki Ltd.

Constitution of Panel

Regulation 22 (2) deals with the provisions related to constitution of panel. The decision regarding compulsory delisting shall be taken by a panel to be constituted by the recognized stock exchange consisting of –

a. Two directors of the recognized stock exchange (one of whom shall be a public representative);

b. One representative of the investors;

c. One representative of the Ministry of Corporate Affairs or Registrar of Companies; and

d. The Executive Director or Secretary of the recognized stock exchange.

e. Time period of making representation

f. Regulation 22(3) of the SEBI (Delisting of Equity Shares) Regulations, 2009 provides that before passing a delisting order the recognized stock exchange shall give a notice of the proposed delisting in one English national daily with wide circulation and one regional language newspaper of the region where the concerned recognized stock exchange is located and shall also display such notice on its trading systems and website.

g. A time period of not less than fifteen working days from the notice, be given to any person who may be aggrieved by the proposed delisting within which he can make representations to the recognised stock exchange which has issued a notice for the delisting.

## CHAPTER 3 – DEPOSITORIES ACT, 1996

**June 2023**

**1. What do you know about Dematerialisation ? What is the procedure for Dematerialisation ?**

**Ans -** Dematerialization is a process by which the physical share certificates of an investor are taken back by the Company and an equivalent number of securities are credited his/her account in electronic form at the request of the investor. An investor will have to first open an account with a Depository Participant and then request for the dematerialization of his/her share certificates through the Depository Participant so that the dematerialized holdings can be credited into that account. This is very similar to opening a Bank Account.

Dematerialization of shares is optional and an investor can still hold shares in physical form. Dematerialisation is covered by the provisions of the Dematerialisation Act, 1996, the Companies Act, 2013 and SEBI laws.

### **Procedure for Dematerialization:**

- Investor open account with Depository Participant.
- Fills dematerialization request form (DRF) for registered shares along with share certificate.
- Investor lodges DRF and certificates with Depository Participant.
- Depository Participant intimates the Depository.
- Depository intimates Registrar/Issuer.
- Depository Participant sends certificates and DRF to Registrar/Issuer.
- Registrar/ Issuer confirms demat to Depository.
- Depository credits investor account.

**June 2022**

**(a) A Company is planning for Initial Public Offer of its equity shares. It has decided differential pricing for retail individual investors vis-a-vis QIBs. The proposed price for retail individual investors is ₹250 and for QIBs is ₹300. Examine the validity of proposal of the company under SEBI Regulations. What will be your answer, if the company proposes ₹280 to anchor investors in book building issue ?**

### **Ans-**

As per the Regulation 30 of the SEBI (Issue of Capital and Disclosure Requirements) Regulations, 2018 the issuer may offer its specified securities at different prices, subject to the following:

- a) retail individual investors or retail individual shareholders or employees entitled reservation made under the Regulation 33 of the SEBI (ICDR) Regulations, 2018 may be offered specified securities at a price not lower than by more than ten per cent of the price at which net offer is made to other categories of applicants, excluding anchor investors;
- b) in case of a book built issue, the price of the specified securities offered to the anchor investors shall not be lower than the price offered to other applicants.

The proposed price for retail individual investors (RII) is ₹250 and for QIB is ₹300. The maximum discount that can be provided to RII shall not be more than ten per cent of the price at which net offer is made to other categories i.e.  $300 \times 10\% = ₹30$ . Hence, the price for RII shall not be lower than ₹270. In the given proposal, the difference

between the proposed price for RII and QIB is more than 10% as envisaged in the regulation, hence the company cannot issue securities with such proposal.

If case the company proposes `280 to anchor investors in book building issue, such issue would not be permissible as the Regulation 30 of the SEBI (ICDR) Regulations, 2018 states that the price of the specified securities offered to the anchor investors shall not be lower than the price offered to other applicants

**(b) The shares issued after the Initial Public Offering (IPO) of an unlisted company, out of options or SAR granted under any scheme prior to its IPO to its employees shall be listed immediately on exercise upon the options in all the recognised stock exchanges. However, the shares of the Company are already listed subject to compliance with the SEBI (Issue of Capital and Disclosure Requirements) Regulations, 2018. You are required to explain the compliances and conditions for the same.**

### **Ans-**

#### **Compliances and Conditions:**

As per SEBI (Share Based Employee Benefits and Sweat Equity) Regulations, 2021-

1. The company shall not make any fresh grant which involves allotment or transfer of shares to its employees under any schemes formulated prior to its IPO and prior to the listing of its equity shares ('pre-IPO scheme') unless:

- Such pre-IPO scheme is in conformity with SEBI (Share Based Employee Benefits and Sweat Equity) Regulations, 2021; and
- Such pre-IPO scheme is ratified by its shareholders subsequent to the IPO.

However, the ratification under clause (ii) may be done at any time prior to grant of new options or shares or SAR under such pre-IPO scheme.

2. No change shall be made in the terms of options or shares or SAR issued under such pre-IPO schemes, whether by repricing, change in vesting period or maturity or otherwise unless prior approval of the shareholders, by way of special resolutions, is taken for such a change, except for any adjustments for corporate actions made in accordance with these regulations.

3. For listing of shares issued pursuant to ESOS, ESPS or SAR, the company shall obtain the in-principle approval of the stock exchanges where it proposes to list the said shares prior to the grant of options or SARs.

4. When holding company issues option, share, SAR or benefits to the employee of its subsidiary, the cost incurred by the holding company for issuing such option, share, SAR or benefits shall be disclosed in the 'notes to accounts' of the financial statements of the subsidiary company.

5. In a case when the holding company issues option, if the subsidiary reimburses the cost incurred by the holding company in granting option, share, SAR or benefits to the employees of the subsidiary, both the subsidiary as well as the holding company shall disclose the payment or receipt, as the case may be, in the 'notes to accounts' to their financial statements.

The company shall appoint a registered merchant banker for the implementation of schemes covered by these regulations till the stage of obtaining in-principle approval from the recognised stock exchanges in accordance with clause (b) of regulation 10 of the SEBI (Share Based Employee Benefits and Sweat Equity) Regulations, 2021

## **DECEMBER 2018**

**1) Explain the following:**

- (i) Dematerialization**
  - (ii) Fungibility**
- (4 marks)**

**SOLUTION:**

- (i) Dematerialization

Dematerialization is a process by which the physical share certificates of an investor are taken back by the Company and an equivalent number of securities are credited to his account in electronic form at the request of the investors.

Dematerialization of shares is optional and an investor can still hold shares in physical form. However, he/she has to demat the shares if he/she wishes to sell the same through the Stock Exchanges.

- (ii) Fungibility

Section 9 of the Depositories Act, 1996 states that securities in depositories shall be in fungible form. The act envisages that all securities held in depository shall be fungible i.e. all certificates of the same security shall become interchangeable in the sense that investor loses the right to obtain the exact certificate which is surrendered at the time of entry into depository. It is like withdrawing money from the bank without bothering about the distinctive numbers of the currencies.

## **JUNE 2019**

**1) A listed company can apply to stock exchange for re-classification of the Promoter's holdings as public shareholders under SEBI regulations. Whether following promoters can apply for re-classification with reference to SEBI regulations ?**

- (a) Promoter is declared as willful defaulter as per RBI guidelines.**
- (b) Promoter is holding 12% of total voting rights in the listed entity.**
- (c) Promoter is acting as CEO of the listed entity.**
- (d) The promoter company has outstanding listing fees only for one year.**

**(4 Marks)**

**SOLUTION:** Regulation 31A of the SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 ("SEBI LODR Regulations") deals with the conditions for re-classification of any person as promoter / public.

Based on the provisions of Regulation 31A of the SEBI LODR Regulations, the following are the answers to the circumstances given:

(a) Promoter is declared as wilful defaulter as per RBI guidelines. As per Regulation 31A (b)(vi), the Promoter declared as a 'wilful defaulter' as per the Reserve Bank of India Guidelines is not eligible to apply for re-classification themselves as public shareholders.

(b) Promoter is holding 12 % of total voting rights in the listed entity. As per Regulation 31A (b)(i), if the promoter holds more than 10% of the total voting rights in the listed entity, they are not eligible for re-classification. Hence in this case, the promoter is not eligible to apply for re-classification.

(c) As per Regulation 31A (b)(v), if the promoter acts as a key managerial person in the listed entity he is not eligible for re-classification. In the given case, the promoter is a CEO hence he is not eligible for re-classification

(d) As per Regulation 31A (c)(iii), the listed entity shall not have any outstanding dues to the SEBI, the stock exchanges or the depositories to be eligible to apply for reclassification. In this case, the promoter company has outstanding listing fees for one year, hence it is not eligible for re-classification.

**2) (i) M/s Highspeed Ltd. manufacturing a car component for leading car manufacturer. Its public issue of ₹500 crore was fully subscribed. The public issue money ought to be utilized for setup an assembly-line for the existing business. Out of ₹500 crore, the company spent ₹400 crore for assembly-line. The management consultant, hired for Business Process re-engineering has suggested to invest balance amount to setup bike components manufacturing unit.**

**You, being company secretary of the company, advise on the opinion of management consultant by referring provisions of SEBI Guidelines.**

**(4 marks)**

**SOLUTION: (i)** According to the Regulation 59 of the SEBI (ICDR) Regulations, 2018, the promoters, or shareholders in control of an issuer, shall provide an exit offer to dissenting shareholders as provided for in the Companies Act, 2013, in case of change in objects or variation in the terms of contract related to objects referred to in the offer document as per conditions and manner as provided in Schedule XX of the SEBI (ICDR) Regulations, 2018.

According to the Schedule XX, the promoter or the shareholders in control, as the case may be, shall make an exit offer in accordance with the provisions of Chapter II of SEBI (ICDR) Regulations to the dissenting shareholders, in cases only if a public issue has opened after April 1, 2014; if:

(a) The proposal for change in objects or variation in terms of a contract, referred to in the offer document is dissented by atleast ten percent of the shareholders who voted in the general meeting; and

(b) The amount to be utilized for the objects for which the offer document was issued is less than seventy five percent of the amount raised (including the amount for general corporate purposes as disclosed in the offer document).

In the given problem M/s Highspeed Ltd. has utilized ₹ 400 crore out of total ₹ 500 crore raised through public issue. As the amount utilized is more than 75% of the total amount raised, the company may utilize the remaining unutilized 100 crore for the purpose as stated in the question.

**3) The financial data of Natural Energy Limited as on 31st March, 2018 are as under :**

**(i) Authorised Share Capital : ₹700 crore**

**(ii) Paid-up Capital : ₹300 crore**

**(iii) Free Reserves : ₹800 crore**

**The company has pending convertible debenture of ₹150 crore, due for conversion in financial year 2018-19. The company proposes to issue bonus shares in the ratio of 1 : 1 after conversion of debenture. You being a company secretary, advise on the procedure to be followed by referring SEBI regulations. (7 marks)**

**SOLUTION:** Chapter XI consisting of regulation 293-295 of the SEBI (ICDR) Regulations, 2018 stipulates the provisions with respect to issue of bonus shares. Regulation 293 provides that, subject to the provisions of the Companies Act, 2013 or any other applicable law, a listed issuer shall be eligible to issue bonus shares to its members if:

(i) it is authorized by its Articles of Association for issue of bonus shares, capitalization of reserves, etc;

Provided that if there is no such provision in the Articles of Association, the issuer shall pass a resolution at its general body meeting making provisions in the Articles of Association for capitalization of reserve;

(ii) it has not defaulted payment of interest or principal in respect of fixed deposits or debt securities issued by it;

(iii) it has not defaulted in payment of statutory dues of the employees such as contribution to provident fund, gratuity and bonus;

(iv) any outstanding partly paid shares on the date of the allotment of the bonus shares are made fully paid-up;

(v) any of its promoters or directors is not a fugitive economic offender.

The Article of Association must authorize it to issue the bonus shares. If there is no provision in the Article for Bonus shares, firstly articles shall be amended by the company.

Determination of increase in authorized capital required:

a.	Paid-up share capital as on 31/03/2018	:	Rs. 300 crores
b.	Paid-up share capital after conversion of debentures:		Rs. 450 crores
c.	Proposed Bonus issue:		One share for every share held
d.	Post Bonus issue Capital:		Rs. 900 Crores

Since authorized capital is Rs.700 crores only, it is required to increase the authorized capital by 200 crores or more.

The Reserves & Surplus is Rs. 800 crores, therefore bonus issue of Rs. 450 crores can be made out of reserves & surplus.

Other conditions to be followed:

- Bonus shares shall not be issued in lieu of dividend
- A resolution shall be passed by the Board in its meeting
- Bonus issue shall be completed within 15 days from the date of approval of Board of Directors, if shareholders' approval is not required

- Where approval of shareholders is required, bonus issue shall be completed within 2 months from the date of meeting of Board of Directors wherein the decision to announce the bonus issue was taken subject to shareholder's approval
- A bonus issue, once announced, shall not be withdrawn.

### **DECEMBER 2018**

1) Girdhar (Retail Individual Investor) had applied for Initial Public Offer of Six Sigma Ltd. through Applications Supported By Block Amount (ASBA) process. The Self Certified Syndicate Banks (SCSBs) failed to make bids in the Stock Exchange system even after the amount has been blocked. The issue was oversubscribed. Based on the SEBI guidelines/circulars, answer the following:

(i) What are the factors that have been taken into account by SEBI for finalization of uniform policy for calculation of the minimum fair compensation?

(ii) Calculate the minimum fair compensation payable to Girdhar based on the following information : Listing Price : ₹350, Issue Price : ₹300, Minimum Bid lot-20 shares, probability of allotment of shares on the basis of allotment (ratio 7 : 8).(4 marks)

**SOLUTION:** (i) According to SEBI Circular no. SEBI/HO/CFD/DIL2/CIR/P/2018/22 dated February 15, 2018, the following factors have been taken into account while finalization of uniform policy for calculation of minimum compensation payable to investors:

- the opportunity loss suffered by the investor due to non-allotment of shares;
- the number of times the issue was oversubscribed in the relevant category;
- the probability of allotment; and
- the listing gains if any on the day of listing.

(ii) Calculation of minimum fair compensation is as follows:

$$\text{Compensation} = \frac{(\text{Listing Price} - \text{Issue Price})}{1} \times \frac{\text{No. of Shares that would have been allotted if bid was successful}}{\text{Probability of allotment of X shares determined on the basis of allotment}}$$

\*Listing price shall be taken as the highest of the opening prices on the day of listing across the recognized Stock Exchanges.

$$\begin{aligned} \text{Compensation amount} &= (\text{₹}350 - \text{₹}300) \times 20 \text{ shares} \times (7/8) \\ &= \text{₹}50 \times 20 \times (7/8) \\ \text{Compensation amount} &= \text{₹}875 \end{aligned}$$

**2) Define “Dissenting shareholders”. What are the conditions for applicability of Exit offers by dissenting shareholders according to SEBI (Issue of Capital and Disclosure Requirements) Regulations, 2009? (4 marks)**

**SOLUTION:** According to regulation 69B of SEBI (Issue of Capital and Disclosure Requirements) Regulations, 2009, “dissenting shareholders” means those shareholders who have voted against the resolution for change in objects or variations in terms of a contract, referred to in the prospectus of the issuer

Conditions for applicability of Exit Offers:

The provisions of exit offers by dissenting shareholders shall be applicable only if the following conditions are fulfilled:

- (a) Exit offer shall be applied on a prospective basis, i.e. the Public Issue has opened after the commencement of April 01, 2014; and
- (b) The proposal shall be dissented by at least 10% of the shareholder; and
- (c) The amount to be utilized for the objects for which the prospectus was issued is less than 75% of the amount raised (including the amount earmarked for general corporate purposes as disclosed in the offer document).

**3) Technopoly Ltd., an unlisted public company, having a paid up equity share capital of ₹3.00 crore consisting of 30,00,000 equity shares of ₹10 each fully paid up, proposes to reduce the denomination of equity shares to less than ₹10 per share and make the initial public offer of equity shares at a premium. Whether it is possible for the company to issue shares at a denomination of less than ₹10?**

**Based on the above facts, you are required to state the minimum issue price, with reference to the provisions of SEBI (Issue of Capital and Disclosure Requirements) Regulations, 2009. (5 marks)**

**SOLUTION:** Regulation 31 of the SEBI (Issue of Capital and Disclosure Requirements) Regulations, 2009, provides that an issuer making an initial public offer may determine the face value of the equity share in the following manner:

- i. If the issue price per equity share is ₹500 or more, the issuer shall have the option to determine the face value at less than ₹10 per equity share, however, the face value shall not be less than ₹1 per equity share;
- ii. If the issue price per equity share is less than ₹500, the face value of equity shares shall be ₹10 per equity share.

However, the above mentioned provisions shall not apply to an initial public offer made by any government company, statutory authority or corporation or any special purpose vehicle set up by any of them, which is engaged in infrastructure sector.

Therefore, the amount of issue price is the determining factor for face value of the equity share.

Further, the amount of premium proposed to be charged by the company will be the determining factor for the face value of shares.

**3 (c) Startups companies have now come up with an Initial Public offer with relaxation of many conditions applicable for Initial Public Offer. In this context, briefly, explain about the “Institutional Trading Platform (ITP)” and eligibility for listing. (5 marks)**

**Answer:** SEBI has notified new norms for listing of Small and Medium Enterprises (SMEs) including the startup companies in Institutional Trading Platform (ITP) on stock exchanges without an initial public offering.

As per SEBI (Issue of Capital and Disclosure Requirements) Regulations, 2009, "Institutional trading platform" ("ITP") means the trading platform for listing and trading of specified securities of entities that comply with the eligibility criteria specified in regulation 106Y.

On August 14, 2015, SEBI has come up with a notification for insertion of a new chapter, i.e. Chapter XC of SEBI (Issue of Capital and Disclosure Requirements) Regulations, 2009 with a new set of regulations laying down the terms and conditions for entities desirous of listing on ITP  
Eligibility

The following entities shall be eligible for listing on the ITP:

(i) an entity which is intensive in the use of technology, information technology, intellectual property, data Analytics, biotechnology or nanotechnology to provide products, services or business platforms with substantial value addition and at least 25% of its pre-issue capital is held by qualified institutional buyer(s) as on the date of filing of draft information document or draft offer document with the SEBI, the case may be; or

(ii) Any other entity in which at least 50% of the pre-Issue capital is held by qualified institutional buyers as on the date of filing of draft information document or draft offer document with the SEBI, the case may be.

No person, individually or collectively with persons acting in concert, shall hold 25% or more of the post-issue share capital in an entity.

**December 2020**

**1) The holding of securities in dematerialise form is not mandatory”. Explain the relevant provisions with reference to the Depositories Ac. (4 marks)**

**SOLUTION:** Depositories Act, 1996 gives the option to investors to receive securities in physical form or in the dematerialized mode. It is not necessary that all eligible securities must be in the depository mode. In the scheme of the Depositories legislation, the investor has been given supremacy. The investor has the choice of holding physical securities or opt for a depository-based ownership record. However, in case of fresh issue of securities, all securities issued have to be in dematerialized form. However, after that, investor will also have the freedom to switch from depository mode to Physical mode and vice versa. The decision as to whether or not to hold securities within the depository mode and if in depository mode, which depository or participant, would be entirely with the investor. According to the Depositories Act, 1996, an investor has the option to hold securities either in physical or electronic form. Part of holding can be in physical form and part in demat form. However, SEBI has notified that settlement of market trades in listing securities should take place only in the demat mode.

## **December 2021**

**1) Ratina Ltd., a listed company has to submit the audit report to the Stock exchange under SEBI (Depositories and Participants) Regulations, 2018. You being a practicing company secretary narrate the activities to be covered in the Audit Report. (5 marks each)**

**SOLUTION:** Regulation 76 of the SEBI (Depositories and Participants) Regulations, 2018 provides that every issuer shall submit audit report on a quarterly basis to the concerned stock exchanges audited by a practising Company Secretary or a qualified Chartered Accountant, for the purposes of reconciliation of the total issued capital, listed capital and capital held by depositories in dematerialized form, the details of changes in share capital during the quarter and the in principle approval obtained by the issuer from all the stock exchanges where it is listed in respect of such further issued capital.

The audit report is required to give the updated status of the register of members of the issuer and confirm that securities have been dematerialized as per requests within 21 days from the date of receipt of requests by the issuer and where the dematerialization has not been effected within the said stipulated period, the report would disclose the reasons for such delay.

The issuer is under an obligation to immediately bring to the notice of the depositories and the stock exchanges, any difference observed in its issued, listed, and the capital held by depositories in dematerialized form.

## CHAPTER 4 – AN OVERVIEW OF SEBI (ISSUE OF CAPITAL AND DISCLOSURE REQUIREMENTS) REGULATIONS, 2018

**June 2023**

**1. Whether these entities are eligible or not to make initial public offer? Answer with reasons in accordance with the SEBI (Issue of Capital and Disclosure Requirements) Regulations, 2018.**

**(i) The promoters' group was earlier debarred from accessing the capital market by the SEBI and the period of debarment is already over on the date of filing of the DRHP with the SEBI.**

**(ii) Recently, one of the promoter is declared as wilful fugitive offender.**

**(iii) The issuer has changed the name in the last one year and earned 40% of the revenue for the preceding one full year from the activity in the new name.**

**(iv) The issuer has a net worth of one crore and fifty lakh rupees in each of the preceding three years, calculated on a restated and consolidated basis.**

**The issuer has an average operating profit of ₹ 10 crore during the three preceding years, with operating profit in each of the preceding three years.**

**Ans –**

(i) The entity is eligible to make initial public offer as the period of debarment on the promoter group, who were earlier debarred from accessing capital market by the SEBI, is already over as on the date of filing of the draft offer document with the SEBI. [Regulation 5(1)(a) of SEBI (Issue of Capital and Disclosure Requirements) Regulations, 2018]

(ii) The entity is not eligible to make initial public offer if the issuer or any of its promoters or directors is a wilful defaulter or a fraudulent borrower and a fugitive economic offender. [Regulation 5(1)(c) and Regulation 5(1)(d) of SEBI (Issue of Capital and Disclosure Requirements) Regulations, 2018]

(iii) The entity is not eligible to make initial public offer as the issuer has earned only 40% of the revenue for the preceding one full year from the activity indicated by the new name. However, as per requirement of the SEBI (Issue of Capital and Disclosure Requirements) Regulations, 2018, an issuer shall be eligible to make an initial public offer if issuer has changed its name within the last one year, at least 50% of the revenue, calculated on a restated and consolidated basis, for the preceding one full year has been earned by it from the activity indicated by its new name. [Regulation 6(1)(d) of SEBI (Issue of Capital and Disclosure Requirements) Regulations, 2018]

(iv) As per the requirement of the SEBI (Issue of Capital and Disclosure Requirements) Regulations, 2018, an issuer shall be eligible to make an initial public offer if the issuer has net worth of at least one crore in each of the preceding three full years (of twelve months each), calculated on a restated and consolidated basis.

In the given case, the issuer has a net worth of one crore and fifty lakh rupees in each of the preceding three full years. Thus, the entity is eligible to make initial public offer. [Regulation 6(1)(c) of SEBI (Issue of Capital and Disclosure Requirements) Regulations, 2018]

(v) As per the requirement of the SEBI (Issue of Capital and Disclosure Requirements) Regulations, 2018, an issuer shall be eligible to make an initial public offer, if it has an average operating profit of at least ₹ 15 crores, calculated on a restated and consolidated basis, during the three preceding years (of twelve months each), with operating profit in each of the three preceding years. However, in the given situation, the issuer has an average operating profit of

₹ 10 crore. Therefore, the entity is not eligible to make initial public offer. [Regulation 6(1)(b) of SEBI (Issue of Capital and Disclosure Requirements) Regulations, 2018]

### **DECEMBER 2019**

**1) After the Initial Public Offer, the equity capital of promoters group holding in a listed company is ₹140 crore. The post issue equity capital of the company is ₹600 crore. The promoters group holding includes (acquired during previous year):**

**(i) ₹20 crore equity capital allotted in consideration of transfer of Technical knowhow by the promoters.**

**(ii) ₹10 crore equity capital pledged with bank.**

**Whether the promoters' group is satisfying minimum promoters contribution requirement as per SEBI regulation? Explain. (5 marks)**

**SOLUTION:** As per regulation 14 of the SEBI (Issue of Capital and Disclosure Requirements) Regulations, 2018, the promoters of the issuer shall hold at least twenty per cent of the post-issue capital.

Further as per regulation 15 of the SEBI (Issue of Capital and Disclosure Requirements) Regulations, 2018, for the computation of minimum promoters' contribution, the following specified securities shall not be eligible:

(a) specified securities acquired during the preceding three years if it is acquired for consideration other than cash and revaluation of assets or capitalization of intangible assets is involved in such transaction.

(b) specified securities pledged with any creditor.

In the present case, ₹20 crore equity capital acquired in consideration of transfer of technical know-how will not be eligible for promoter's contribution, further ₹10 crore equity capital was pledged with bank will also not eligible for promoter's contribution.

The net promoter's contribution after deduction of ₹30 crore (₹20 crore & ₹10 crore) will be ₹110 crore (₹140 crore - ₹30 crore), which is below then the prescribed limit i.e, 20% of post issued capital (₹600 x 20%= ₹120 crore), Therefore, promoters are not satisfying minimum promoters contribution requirements as per SEBI (Issue of Capital and Disclosure Requirements) Regulations, 2018.

**2) A company is planning for Initial Public Offer of its equity shares. It has decided differential pricing for retail individual investors (RII) and QIBs and Non- Institutional Investors (NIIs). The proposed price for RII is ₹250 and for QIB and NII is ₹300. Examine the validity of proposal of the company in light of SEBI regulations. What will be your answer if company is proposing ₹280 to anchor investors in book building issue? Explain. (4 marks)**

**SOLUTION:** As per the Regulation 30 of SEBI (Issue of Capital and Disclosure Requirements) Regulations 2018, the issuer may offer its specified securities at different prices, subject to the following:

(a) retail individual investors or retail individual shareholders or employees entitled for reservation made under the regulation 33 of SEBI (ICDR) Regulations 2018, may be offered specified securities at a price not lower than by more than ten percent of the price at which net offer is made to other categories of applicants, excluding anchor investors:

(b) in case of a book-built issue, the price of the specified securities offered to the anchor investors shall not be lower than the price offered to other applicants

The difference between the proposed price for Retail Individual Investor (RII) and Qualified Institutional Buyer (QIB) and Non-Institutional Investors (NIIs) is more than 10%, as envisaged in the regulation, hence the company cannot issue securities to RII at ₹250 per share.

If the equity shares is proposing to anchor investors at ₹280, it is not as per the regulation 30 of SEBI (ICDR) Regulations, 2018 as the price is lower than the other applicants i.e., QIB and FII.(assuming QIB and FII are other applicants)

**3) An IPO is made by Rakesh Steel Ltd., which is a listed company on the stock exchange. The Managing Director of the company directs the Company Secretary to prepare details of half yearly compliance requirements as per the listing agreement. Explain the same. (4 marks)**

**SOLUTION:** Half Yearly Compliances as per SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015

Regulation 7(3) : The listed entity shall submit a compliance certificate to the exchange, duly signed by both the compliance officer of the listed entity and the authorized representative of the share transfer agent within one month of end of each half of the financial year.

Regulation 29(1) : The listed entity shall give prior intimation to stock exchange about the meeting of the board of directors in which the proposals is due to be considered for financial results viz. quarterly, half yearly, or annual, as the case may be.

Proviso to Regulation 31(1): listed entities which have listed their specified securities on SME Exchange, the Holding of specified securities and shareholding pattern shall be submitted on a half yearly basis within twenty-one days from the end of each half year.

Regulation 32: The listed entity shall submit to the stock exchange the following statement(s) on a quarterly basis for public issue, rights issue, preferential issue etc.

a. indicating deviations, if any, in the use of proceeds from the objects stated in the offer document or explanatory statement to the notice for the general meeting, as applicable;

b. indicating category wise variation (capital expenditure, sales and marketing, working capital etc.) between projected utilisation of funds made by it in its offer document or explanatory statement to the notice for the general meeting, as applicable and the actual utilisation of funds.

For the purpose of this regulation, reference to “quarterly/quarter” in case of listed entity which has listed their specified securities on SME Exchange shall respectively be read as “half yearly/half year”.

Regulation 33(3)(f) : While preparing financial results, the listed entity shall also submit as part of its standalone or consolidated financial results for the half year, by way of a note, a statement of assets and liabilities as at the end of the half – year.

Regulation 33(3)(g): The listed entity shall also submit as part of its standalone and consolidated financial results for the half year, by way of a note, statement of cash flows for the half-year.

Regulation 33(5) : For the purpose of ‘Financial Results’ (Regulation 33), any reference to “quarterly/quarter” in case of listed entity which has listed their specified securities on SME Exchange shall be respectively read as “half yearly/half year” and the requirement of

submitting 'year-to-date' financial results shall not be applicable for a listed entity which has listed their specified securities on SME Exchange.

Regulation 40(9) : The listed entity shall ensure that the share transfer agent and/or the in-house share transfer facility, as the case may be, produces a certificate from a practising company secretary within one month of the end of each half of the financial year, certifying that all certificates have been issued within thirty days of the date of lodgement for transfer, sub-division, consolidation, renewal, exchange or endorsement of calls/allotment monies.

As per Regulation 40(10) of SEBI (LODR), the listed entity shall ensure that certificate mentioned at Regulation 40 (9), shall be filed with the stock exchange(s) simultaneously

**4) TechNoGrow Ltd. approved buy back proposal of 200000 Equity share capital in its Board meeting on 25th April, 2019. The record date was fixed on 25th June, 2019. The closing market price on NSE as on 25th April, 2019 and 25th June, 2019 was ₹2640.40 and ₹2514.05 respectively. Determine the number of equity shares which is eligible to be tendered by Small Shareholder Category (rounded off to lower whole number). (5 marks)**

(a) Hope Ltd. makes an issue worth ₹125 crore to the public, out of which ₹20 crore was for sale to existing shareholders. Explain the provisions regarding the utilisation of proceeds and state whether any exception is available. (5 marks)

**SOLUTION:** In terms of proviso to the Regulation 6 of the SEBI (Buyback of Securities) Regulations, 2018, fifteen percent of the number of securities which the company proposes to buy back or number of securities entitled as per their shareholding, whichever is higher, shall be reserved for small shareholders. Hence the total shares reserved for buyback under the offer will be:

$$200,000 \times 15\% = 30,000 \text{ shares}$$

Further, as per regulation 2(n) of the SEBI (Buy back of Securities) Regulations, 2018 'small shareholder' means a shareholder of a company, who holds shares or other specified securities whose market value, on the basis of closing price or shares or other specified securities, on the recognized stock exchange in which highest trading volume in respect of such securities, as on record date is not more than two lakh rupee.

The closing price on record date is ₹2514.05. The number of shares eligible for buy back under small shareholders category will be:

$$200000 / ₹ 2514.05 = 79.55 \text{ shares}$$

79.55 shares rounded off to lower whole number i.e 79 shares.

Hence, equity shareholders holding not more than 79 shares of TechNoGrow Ltd. shall be classified as Small Shareholders.

**June 2021**

**1) Briefly explain the procedures followed by the Depository Participants with regard to issuance of Delivery Instruction Slips (DIS) and verification of the same. (4 marks)**

**SOLUTION:** Issuance of Delivery Instruction Slips (DIS)

The procedure followed by the Participants with respect to:

- (a) Issuance of DIS booklets including loose slips.
- (b) Existence of controls on DIS issued to Clients including pre-stamping of Client ID and unique pre-printed serial numbers.
- (c) Record maintenance for issuance of DIS booklets (including loose slips) in the back office.

Verification of Delivery Instruction Slips (DIS)

The procedure followed by the Participants with respect to:

- (a) Date and time stamping (including late stamping) on instruction slips.
- (b) Blocking of used/reported lost/stolen instruction slips in back office system/ manual record.
- (c) Blocking of slips in the back office system/manual record which are executed in DPM directly.
- (d) Two step verification for a transaction for more than ₹5 lakh, especially in case of off market transactions.
- (e) Instructions received from dormant accounts

**2) Actnow Edge Limited, an unlisted company, is in the process of expanding its business. For expansion, it needs funds of ₹200 crore. For raising ₹200 crore, company has decided to bring an initial public offer through book building mechanism. It has fixed a price band of ₹500 – ₹600. Referring to provisions of SEBI (Issue of Capital and Disclosure Requirements) Regulations, 2018, advise the company on the following matters :**

- (i) What should be minimum application value and minimum number of equity shares in one application ?
- (ii) What will be minimum sum payable on application ?
- (iii) What should be minimum time period for which issue should remain open for subscription ? (5 marks)

**SOLUTION:** Application and Minimum Application Value (Regulations 47 & 143 of SEBI (ICDR) Regulations, 2018]

The issuer shall stipulate in the offer document the minimum application size in terms of number of specified securities which shall fall within the range of minimum application value of ten thousand rupees to fifteen thousand rupees.

Thus, in the given case Actnow Edge Limited should fix the minimum number of shares in one application in such a manner that minimum application value should not cross the limit of ₹10,000 to ₹15,000. Hence, minimum number of shares in one application will be:

At lower level of price band: 20 Shares (₹10000/₹ 500) & 30 Shares (₹15000/₹500)

At higher level of price band : 17 Shares (₹10000/₹600) & 25 Shares (₹15000/₹600)

(i) The minimum sum payable on application per specified security shall be at least twenty five per cent of the issue price.

(ii) Period of Subscription [Regulations 46 & 142]

An IPO shall be kept open for at least three working days and not more than ten working days.

In case of a revision in the price band, the issuer shall extend the bidding (issue) period disclosed in the red herring prospectus, for a minimum period of three working days.

In case of force majeure, banking strike or similar circumstances, the issuer may, for reasons to be recorded in writing, extend the bidding (issue) period disclosed in the red herring

prospectus (in case of a book built issue) or the issue period disclosed in the prospectus (in case of a fixed price issue), for a minimum period of three working days.

## **DECEMBER 2020**

**1) Hope Ltd. makes an issue worth ₹125 crore to the public, out of which ₹20 crore was for sale to existing shareholders. Explain the provisions regarding the utilisation of proceeds and state whether any exception is available. (5 marks)**

**SOLUTION:** Regulations 41 and 137 of SEBI (Issue of Capital and Disclosure Requirements) Regulations, 2018, prescribes the role of Monitoring agency to track the end use of proceeds of IPO. As per Regulation 'if the issue size excluding the size of offer for sale by selling shareholders exceeds ₹100 crore, the issuer shall ensure that the use of proceeds of the issue is monitored by a public financial institutions or by one of the scheduled commercial banks named in the offer document as a banker to the issuer'.

In the given case, the issue exceeds ₹100 crore i.e ₹5 crore excluding ₹20 crore by selling shareholders. Hence, a monitoring agency should be appointed to track the issue proceeds. Further the monitoring agency shall submit its report to the issuer in the format specified in the ICDR Regulations, 2018 on a quarterly basis, till at least 95% of the proceeds of the issue excluding the proceeds raised for general corporate purposes, have been utilised. The Board of Directors and the management of the issues shall provide their comments on the findings of the monitoring agency. The issuer shall, within 45 days from the end of the each quarter, publicly disseminate the report of the monitoring agency by uploading the same on its website as well as submitting the same to the stock exchange(s) on which its equity shares are listed. However, the above mentioned rule is not applicable if the issuer is a bank or a public financial institution or an insurance company.

**2) Govind Ltd. proposes to issue 20 lakh share warrants to its promoters. The share warrant gives an option to buy shares at a predetermined price. The price trend of the Company's share in the stock market is given below:**

- i. Closing price on the relevant date: ₹250.
- ii. The average weekly high and low of the closing price during the 26 weeks preceding to the relevant date: ₹275.
- iii. The average weekly high and low of the closing price during the 2 weeks preceding to the relevant date: ₹280.

**You are required to:**

**(a) Identify the minimum price at which share warrants should be issued; and Calculate the amount payable by the promoters at the time of allotment of the warrants.**

**SOLUTION:** Pricing of frequently traded shares [Regulation 164(1) of SEBI (ICDR) Regulations, 2018] : If equity shares of the issuer have been listed on a recognised stock exchange for a period of 26 weeks or more as on the relevant date, the price of equity shares to be allotted pursuant to the preferential issue shall be not less than higher of the following:

- a. the average of the weekly high and low of the volume weighted average prices of the related equity shares quoted on a recognised stock exchange during the 26 weeks preceding the relevant date i.e ₹. 275; or
- b. the average of the weekly high and low of the volume weighted average prices of the related equity shares quoted on a recognised stock exchange during the 2 weeks preceding the relevant date i.e ₹ 280

So, the price of warrant should not be less than ₹280 per share warrant.

b) The price or formula for determination of exercise price of the warrants shall be determined upfront and disclosed in the offer document and at least 25 per cent of the consideration amount based on the exercise price shall also be received upfront. However, in case the exercise price of warrants is based on a formula, 25 per cent consideration amount based on

the cap price of the price band determined for the linked equity shares or convertible securities shall be received upfront.

Hence, the promoters are liable to pay at least 25% of the share warrant i.e ₹ 70 per share warrant. This amount should be paid on the date of the allotment of share warrant by the promoters.

Amount to be payable by the promoters at the time of allotment of the warrants  
= 20,00,000 shares x ₹70 = ₹14 crore.

**3) RP Ltd. is planning to issue an IPO in 2019 for which a draft offer document is proposed to be filed in September, 2019. The following data is available regarding the company:**

**(₹ in crore)**

	2015-16	2016-17	2017-18
Net Tangible Assets	5.00	8.00	7.00
Monetary Assets	1.00	3.00	3.00
Net Worth	3.00	4.00	5.00

1) **Advice the company whether they can proceed with the IPO**

2) **Will your answer be different if value of monetary assets is ₹ 4 crore in 2016-17?**

3) **How will you deal with the situation, if company has monetary assets of ₹ 5 crore in the year 2017-18 ? (5 marks)**

**SOLUTION:** Regulation 6 of SEBI (Issue of Capital and Disclosure Requirements) Regulations, 2018 deals with the eligibility requirement of an IPO. The provisions pertaining to Net tangible Assets, Monetary Assets and Net worth as per SEBI (ICDR) Regulations are as under:

a) the issuer has net tangible assets of at least ₹3 crores on a restated and consolidated basis, in each of the preceding three full years of (12 months each) of which not more than 50% is held in monetary assets;

b) the issuer has a net worth of at least 1 crore in each of the preceding three full years, calculated on a restated and consolidated basis;

In the given case, RP Ltd. has net tangible assets of at least ₹3 crores in three years and Net worth of at least ₹1 crores. Monetary assets are also within the threshold limit of 50% in each year, thereby satisfying all the conditions. Therefore, RP Ltd. can proceed with the IPO.

(ii) A company can proceed for IPO, if value of monetary assets is upto 50% of the Net Tangible Assets. In case monetary assets is ₹4 crores in 2016-2017 i.e. 50% of Net Tangible Asset. Hence, RP Ltd. can still proceed for IPO.

As per SEBI regulation, if more than 50% of the net tangible assets are held in monetary assets, the issuer has utilized or made firm commitment to utilize such excess monetary assets in its business or project. Therefore, if monetary assets are ₹5 corers in 2017-2018, the company should have made firm commitment to utilize such excess monetary assets in its business or project, otherwise the company will not be able to proceed for IPO

## CHAPTER 5 – AN OVERVIEW OF SEBI (LISTING OBLIGATIONS AND DISCLOSURE REQUIREMENTS) REGULATIONS, 2015

**June 2023**

1. RJS Ltd. is in the list of top 500 listed entities. P is a non-executive chairman of the company. Q, R & T are the promoters of the company. P is related to the one of the promoter T. A is the only woman director (executive director) in the Board. Further, the company is planning to appoint C (aged 70 years) as a non-executive director. Answer the following with reference to the SEBI (LODR) Regulations, 2015 :

- (i) Whether the company still requires to appoint another woman director ?
- (ii) What is your view for the requirement of independent directors of RJS Ltd. ?
- (iii) Who shall approve the related party transactions in the Audit Committee meeting of a listed company ?
- (iv) Whether the appointment of C is valid ?

**Ans –**

i. As per regulation 17 of the SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015, the Board of directors of the top 500 listed entities shall have at least one independent woman director by April 1, 2019. In the given situation, the company will be required to appoint one independent woman director as RJS Ltd. is in the list of top 500 listed entities and has an executive woman director, who is non-independent.

ii. As per regulation 17 of the SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015, where the non-executive chairperson is a promoter of the listed entity or is related to any promoter, at least half of the board of directors of the listed entity shall consist of independent directors. In the given situation, P is the non-executive chairman of RJS Ltd. and is related to one of the promoters. Therefore RJS Ltd. will be required to appoint at least half of the board as independent directors.

iii. As per the SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015, all related party transactions shall be approved by only independent directors in the Audit Committee.

iv. C can be appointed as a non-executive director of the company as his age is not beyond 75 years as prescribed under regulation 17(1A) of the SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015.

2. XYZ Limited is having three subsidiaries X Ltd., Y Ltd., and Z Ltd. The consolidated income of XYZ Limited is ₹ 300 crore and net worth is ₹ 600 crore. The income and net worth of X Ltd., Y Ltd., and Z Ltd. are as follows :

Company	Income (₹)	Net worth
(₹)X Ltd.	10 crore	
	65 crore	
Y Ltd.	45 crore	14 crore
Z Ltd. 10 crore	18 crore	

Examine if there is any material subsidiary of XYZ Limited.

**Ans –**

In terms of the provisions of regulation 16(1)(c) of the SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015, “material subsidiary” shall mean a subsidiary, whose income or net worth exceeds 10% of the consolidated income or net worth respectively, of the listed company and its subsidiaries in the immediately preceding accounting year.

In the given case, 10% of consolidated income and net worth of XYZ Limited would be ₹ 30 crores and ₹ 60 crores respectively.

- Hence X Limited since crossed threshold in terms of Net Worth, would be a material subsidiary of XYZ Limited.
- Y Limited since crossed threshold in terms of income, would be a material subsidiary of XYZ Limited.
- Z Limited since does not cross either of the threshold, would not be material subsidiary of XYZ Limited.

3. What are the information to be reviewed by the Audit Committee for approval and the information to be provided to shareholders for their consideration of Related Party Transactions (RPTs) in case of a listed entity as per the amended SEBI (LODR) Regulations, 2015 ?

**Ans –**

Vide SEBI notification dated November 9, 2021, Regulation 23 of the SEBI (Listing Obligations and Disclosure Requirements), Regulations 2015 (“LODR Regulations”) was amended, inter-alia, mandating listed entities, that have listed specified securities, to submit to the stock exchanges disclosure of Related Party Transactions (RPTs) in the format specified by the SEBI from time to time.

SEBI vide circular no. SEBI/HO/CFD/CMDI1/CIR/P/2021/662 dated November 22, 2021 has prescribed the information to be placed before the audit committee and the shareholders for consideration of Related Party Transactions (RPTs).

**A. Information to be reviewed by the Audit Committee for approval of RPTs** The listed entity shall provide the following information, for review of the audit committee for approval of a proposed RPT:

- a. Type, material terms and particulars of the proposed transaction;
- b. Name of the related party and its relationship with the listed entity or its subsidiary, including nature of its concern or interest (financial or otherwise);
- c. Tenure of the proposed transaction (particular tenure shall be specified);
- d. Value of the proposed transaction;
- e. The percentage of the listed entity's annual consolidated turnover, for the immediately preceding financial year, that is represented by the value of the proposed transaction (and for a RPT involving a subsidiary, such percentage calculated on the basis of the subsidiary's annual turnover on a standalone basis shall be additionally provided);
- f. If the transaction relates to any loans, inter-corporate deposits, advances or investments made or given by the listed entity or its subsidiary:
  - (i) details of the source of funds in connection with the proposed transaction;
  - (ii) where any financial indebtedness is incurred to make or give loans, inter-corporate deposits, advances or Investments,
    - nature of indebtedness;
    - cost of funds; and
    - tenure;
  - (iii) applicable terms, including covenants, tenure, interest rate and repayment schedule, whether secured or unsecured; if secured, the nature of security; and
  - (iv) the purpose for which the funds will be utilized by the ultimate beneficiary of such funds pursuant to the RPT.
- g. Justification as to why the RPT is in the interest of the listed entity;
- h. A copy of the valuation or other external party report, if any such report has been relied upon;
- i. Percentage of the counter-party's annual consolidated turnover that is represented by the value of the proposed RPT on a voluntary basis;
- j. Any other information that may be relevant.

The audit committee shall also review the status of long-term (more than one year) or recurring RPTs on an annual basis.

## **B. Information to be provided to shareholders for consideration of RPTs**

The notice being sent to the shareholders seeking approval for any proposed RPT shall, in addition to the requirements under the Companies Act, 2013, include the following information as a part of the explanatory statement:

- a. A summary of the information provided by the management of the listed entity to the audit committee;
- b. Justification for why the proposed transaction is in the interest of the listed entity;
- c. Where the transaction relates to any loans, inter-corporate deposits, advances or investments made or given by the listed entity or its subsidiary, the details specified under point (f) above;

(The requirement of disclosing source of funds and cost of funds shall not be applicable to listed banks/NBFCs.)

- d. A statement that the valuation or other external report, if any, relied upon by the listed entity in relation to the proposed transaction will be made available through the registered email address of the shareholders;
- e. Percentage of the counter-party's annual consolidated turnover that is represented by the value of the proposed RPT, on a voluntary basis;
- f. Any other information that may be relevant.

### **June 2022**

**(a) Saatvik is a Managing Director in a listed company as well as an Independent director in other three listed companies. One of the leading listed e-Commerce company offered him independent directorship on its Board. Whether he can accept the directorship with specific reference to SEBI regulation. Explain with reasons.**

#### **Ans-**

As per the Regulation 17A of the SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015, the directors of listed entities shall comply with the following conditions with respect to the maximum number of directorships, including any alternate directorships that can be held by them at any point of time:

- (1) A person shall not be a director in more than eight listed entities with effect from April 1, 2019 and in not more than seven listed entities with effect from April 1, 2020.

However a person shall not serve as an independent director in more than seven listed entities.

- (2) Notwithstanding the above, any person who is serving as a whole time director/managing director in any listed entity shall serve as an independent director in not more than three listed entities.

In the given case, Saatvik is a Managing Director in a listed company as well as an Independent Director in other three listed companies and hence he is already holding the maximum permissible directorship under the SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015. He therefore cannot accept the independent directorship in a listed e-Commerce company

**Kiyan International Ltd., is a listed entity on the leading stock exchange platform. It had appointed one Executive Promoter Director in 2019 on a monthly salary only. The company now proposes to appoint another Executive Promoter Director on the Board at the same monthly salary. The aggregate annual remuneration to such directors exceeds five per cent of the net profit of the company.**

**(1) Examine with respect to the SEBI Regulations, the relevant approval required for paying this remuneration.**

**(2) Whether it will make any difference, if the company pays fees/compensation instead of fixed monthly salary ?**

**Ans-**

(1) According to the Regulation 17(6) of the SEBI (Listing Obligations and Disclosure Requirements) Regulation, 2015, the fees or compensation payable to executive directors who are promoters or members of the promoter group, shall be subject to the approval of the shareholders by special resolution in general meeting, if -

(i) the annual remuneration payable to such executive director exceeds rupees 5 crore or 2.5 per cent of the net profits of the listed entity, whichever is higher; or

(ii) where there is more than one such director, the aggregate annual remuneration to such directors exceeds 5 per cent of the net profits of the listed entity.

(2) Provided that the approval of the shareholders under this provision shall be valid only till the expiry of the term of such director.

(3) In the given case Kiyan International Ltd. is paying the aggregate annual remuneration to such directors in excess of five per cent of the net profit of the Company and in view of above the Company is required to take approval of shareholders by way of special resolution in general meeting.

(4) As per Section 2 (78) of the Companies Act, 2013 "remuneration" means any money or its equivalent given or passed to any person for services rendered by him and includes perquisites as defined under the Income-tax Act, 1961.

Further, Sections 197(5) and (6) of the Companies Act, 2013 state that a director may receive remuneration by way of fee for attending meetings of the Board or Committee thereof or for any other purpose whatsoever as may be decided by the Board and that a director or manager may be paid remuneration either by way of a monthly payment or at a specified percentage of the net profits of the company or partly by one way and partly by the other.

In view of above, it will not make any difference, if the Company pays fees/ compensation instead of fixed monthly salary, as the definition under the Companies Act, 2013 is all inclusive of the fees / compensation

**(b) E-voting by the shareholders in respect of all shareholders' resolutions is at a negligible level. SEBI has made certain changes in its regulation to make it more effective. Explain the initiatives taken by the SEBI.**

**Ans-**

In terms of the Regulation 44 of the SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015, listed entities are required to provide remote e-voting facility to its shareholders, in respect of all shareholders' resolutions. However, it has been observed that the participation by the public non-institutional shareholders/retail shareholders is at a negligible level. Currently, there are multiple e-voting service providers (ESPs) providing e-voting facility to listed entities in India. This necessitates registration on various ESPs and maintenance of multiple user IDs and passwords by the shareholders.

In order to increase the efficiency of the voting process, pursuant to a public consultation, it has been decided by the SEBI vide its circular dated 9th December, 2020, to enable e-voting to all the demat account holders, by way of a single login credential, through their demat accounts/ websites of Depositories/ Depository Participants. Demat account holders would be able to cast their vote without having to register again with the ESPs, thereby, not only facilitating seamless authentication but also enhancing ease and convenience of participating in e-voting process. The same shall be implemented in a phased manner as prescribed under the circular.

The aforementioned facility shall be available to all individual shareholders holding the securities in demat mode

**(c) With reference to the SEBI Regulations, explain with reasons, the eligibility for appointment of an Independent director in a listed company.**

- a) **Aarav has given his office premises on lease to the company.**
- b) **Ehsaan is a component supplier.**
- c) **Manav is 20 year old.**
- d) **Elika holds 1% of the total voting power.**

**Ans-** As per the Regulation 16 of the SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015:

"Independent director" means a non-executive director, other than a nominee director of the listed entity who, satisfies the conditions as prescribed therein. It also states that such director neither himself/herself, nor whose relative(s) -

- holds together with his relative two per cent or more of the total voting power of the listed entity;

- is a material supplier, service provider or customer or a lessor or lessee of the listed entity;

- such director is not less than 21 years of age.

a) In the given case, Aarav has given his office premises on lease to the company, therefore he is not eligible for appointment as an Independent director.

b) In this case, Ehsaan is a component supplier i.e. a material supplier, hence he is not eligible for appointment as Independent director.

c) Manav is 20 year old and minimum age prescribed for Independent director is 21 years. Hence he is not eligible for appointment as an Independent director.

d) Elika holds 1% of the total voting power, which is less than 2% of limit prescribed, hence he/she is eligible for appointment as an Independent director

**(d) Amar, one of the Independent directors of Ignite Colour Ltd., a listed company, intends to hold a meeting of Independent directors without inviting the Managing Director of the company. Is the action of the Independent director valid ? Give reasons.**

**Ans-**

According to the Regulation 25 of the SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015, the independent directors of the listed entity must hold at least one meeting in a financial year without the presence of non-independent directors and members of the management. All Independent directors shall strive to be present at such meeting.

In the given case the action of the Amar, Independent Director of Ignite Colour Ltd. is valid as the Managing Director was not invited.

**(e) Vigil Mechanism**

**Ans-**

According to the Regulation 22 of the SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015, the listed entity shall formulate a vigil mechanism /whistle blower policy for directors and employees to report genuine concerns.

The vigil mechanism shall provide for adequate safeguards against victimization of director(s) or employee(s) or any other person who avail the mechanism and also provide for direct access to the chairperson of the audit committee in appropriate or exceptional cases

## **DECEMBER 2019**

**2 (a) Neo Engineering Ltd. is in the list of top 1000 listed entity on the basis of market capitalization. Based on the changes made in SEBI LODR, what would be the composition of the Board as on 1st April, 2019 and 1st April, 2020 ? Explain. (4 marks)**

**Answer:** As per the Regulation 17 of SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 as amended, the composition of board of directors of the listed entity shall have optimum combination of executive and non-executive directors with at least one woman director and not less than fifty percent of the board of directors shall comprise of non-executive directors, provided that;

– Board of directors of the top 500 listed entities shall have at least one independent woman director by April 1, 2019 and the Board of directors of the top 1000 listed entities shall have at least one independent woman director by April 1, 2020.

– The board of directors of the top 1000 listed entities w.e.f. April 1, 2019 shall comprise of not less than six directors.

– With effect from April 1, 2020, the top 500 listed entities shall ensure that the Chairperson of the board of such listed entity shall –

(a) be a non-executive director;

(b) not be related to the Managing Director or the Chief Executive Officers as per the definition of the term "relative" defined under the Companies Act, 2013

However this requirement shall not be applicable to the listed companies which do not have identifiable promoters as per the shareholding pattern filed with the stock exchange.

The quorum for every meeting of the board of directors of the top 1000 listed entities with effect from April 1, 2019 shall be one-third of its total strength or three directors, whichever is higher, including at least one independent director.

However, the participation of directors by video conferencing or by other audio-visual means shall also be counted for the purposes of such quorum.

**2A (iii) An IPO is made by Rakesh Steel Ltd., which is a listed company on the stock exchange. The Managing Director of the company directs the Company Secretary to prepare details of half yearly compliance requirements as per the listing agreement. Explain the same. (4 marks)**

**Answer:** Half Yearly Compliances as per SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015

Regulation 7(3) : The listed entity shall submit a compliance certificate to the exchange, duly signed by both the compliance officer of the listed entity and the authorized representative of the share transfer agent within one month of end of each half of the financial year.

Regulation 29(1) : The listed entity shall give prior intimation to stock exchange about the meeting of the board of directors in which the proposals is due to be considered for financial results viz. quarterly, half yearly, or annual, as the case may be.

Proviso to Regulation 31(1) : listed entities which have listed their specified securities on SME Exchange, the Holding of specified securities and shareholding pattern shall be submitted on a half yearly basis within twenty one days from the end of each half year.

Regulation 32: The listed entity shall submit to the stock exchange the following statement(s) on a quarterly basis for public issue, rights issue, preferential issue etc.

a. indicating deviations, if any, in the use of proceeds from the objects stated in the offer document or explanatory statement to the notice for the general meeting, as applicable;

b. indicating category wise variation (capital expenditure, sales and marketing, working capital etc.) between projected utilisation of funds made by it in its offer document or explanatory statement to the notice for the general meeting, as applicable and the actual utilisation of funds.

For the purpose of this regulation, reference to “quarterly/quarter” in case of listed entity which has listed their specified securities on SME Exchange shall respectively be read as “half yearly/half year”.

Regulation 33(3)(f) : While preparing financial results, the listed entity shall also submit as part of its standalone or consolidated financial results for the half year, by way of a note, a statement of assets and liabilities as at the end of the half – year.

Regulation 33(3)(g) : The listed entity shall also submit as part of its standalone and consolidated financial results for the half year, by way of a note, statement of cash flows for the half-year.

Regulation 33(5) : For the purpose of ‘Financial Results’ (Regulation 33), any reference to “quarterly/quarter” in case of listed entity which has listed their specified securities on SME Exchange shall be respectively read as “half yearly/half year” and the requirement of submitting ‘year-to-date’ financial results shall not be applicable for a listed entity which has listed their specified securities on SME Exchange.

Regulation 40(9) : The listed entity shall ensure that the share transfer agent and/or the in-house share transfer facility, as the case may be, produces a certificate from a practising company secretary within one month of the end of each half of the financial year, certifying

that all certificates have been issued within thirty days of the date of lodgement for transfer, sub-division, consolidation, renewal, exchange or endorsement of calls/allotment monies.

As per Regulation 40(10) of SEBI (LODR), the listed entity shall ensure that certificate

## **DECEMBER 2018**

**2 (c) For ensuring independence in the spirit of Independent Directors and their active participation in functioning of the company, SEBI has accepted many recommendations of Committee setup under the Chairmanship of Shri Uday Kotak and made amendments in the SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015. Explain any four amended provisions related to Independent Directors. (4 Marks)**

**Answer:** Based on the recommendations of Kotak Committee, the amendments made in the SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 with respect to Independent Directors are as follows:

i. The Board of Directors of the top 500 listed entities shall have at least one independent woman director by April 1, 2019 and the Board of Directors of the top 1000 listed entities shall have at least one independent woman Director By April 1, 2020.

ii. The quorum for every meeting of the Board of Directors of the top 1000 listed entities with effect from April 1, 2019 and the top 2000 listed entities with effect from April 1, 2020 shall be one-third of its total strength or three Directors, whichever is higher, including at least one independent director.

iii. A person shall not serve as an independent director in more than seven listed entities. However, any person who is serving as a whole time director / managing director in any listed entity shall serve as an independent director in not more than three listed entities.

iv. The evaluation of independent director shall be done by the entire Board of Directors which shall include:-

(a) performance of the director; and

(b) fulfilment of the Independence criteria as specified in SEBI Listing Regulations and their Independence from the management.

However in the above evaluation, directors who are subject to evaluations shall not participate.

v. The quorum for a meeting of the nomination and remuneration committee shall be either two members or one-third of the members of the committee whichever is greater, including at least one independent director in attendance.

vi. At least one independent director on the Board of Directors of the listed entities shall be a director on the Board of Directors of an unlisted material subsidiary, whether incorporated in India or not.

vii. No person shall be appointed or continue as an alternate director for an independent director of a listed entity with effect from October 1, 2018.

viii. Detailed reasons for the resignation of an independent director who resigns before the expiry of his tenure along with a confirmation by such director that there are no other material reasons other than those provided.

ix. At least one independent director on the Board of Directors of the listed entity shall be a director on the Board of Directors of an unlisted material subsidiary, whether incorporated in India or not.

x. Every independent director shall, at the first meeting of the Board in which he participates as a director and thereafter at the first meeting of the board in every financial year or whenever there is any change in the circumstances which may affect his status as an independent director, submit a declaration that he meets the criteria of independence as provided in clause (b) of sub-regulation (1) of regulation 16 of SEBI Listing Regulations and that he is not aware of any circumstance or situation, which exist or may be reasonably anticipated, that could impair or impact his ability to discharge his duties with an objective independent judgment and without any external influence.

(Students may write any four amendments)

**2A (iv) You are the Company Secretary of Sunglow Ltd., which being listed on the Stock Exchange after an IPO is made by the company. The Managing Director desires to know about quarterly compliance requirements under listing agreement. Prepare a list of quarterly compliances as per the listing regulations. (4 marks)**

**Answer:** The followings are the quarterly compliances required to be made under the SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015:

Regulation No.	Particulars	Time Limits
13(3)	The listed entity shall file with the recognised Stock Exchange, a statement giving the number of investor complaints pending at the beginning of the quarter, received during the quarter, disposed of during the quarter and those remaining unresolved at the end of the quarter.	Within 21 days from end of quarter.
27 (2)(a)	The listed entity shall submit a quarterly compliance report on corporate governance in the format as specified by SEBI from time to time to the recognised Stock Exchange(s).	Within 15 days from close of the quarter.
31(1)(b)	The listed entity shall submit to the stock exchange a statement showing holding of securities and share holding pattern separately for each class of securities, specified by SEBI.	Within 21 days from the end of each quarter.
32(1)	The listed entity shall submit to the stock exchange a statement of deviation or variation.	Within 21 days from the end of each quarter.
33(3)	The listed entities shall submit quarterly and year-to-date financial results to the stock exchange.	Within 45 days of end of each quarter, other than the last quarter.

**2 (d) Bombay Stock Exchange Ltd. had suspended trading in shares of XYZ Ltd. for violating conditions of listing agreement. The company has now complied with the listing regulations requirements. By referring to SEBI circular/regulations, discuss the criteria for suspension of the trading in the shares of the listed entities. (4 Marks)**

**Answer:** SEBI vide its Circular dated May 3, 2018, prescribed the criteria for suspension of the trading in the shares of the listed entities which are as follows:

Failure to comply with respect to:

- (i) board composition including appointment of woman director for two consecutive quarters;
- (ii) constitution of audit committee for two consecutive quarters;
- (iii) submission of corporate governance compliance report for two consecutive quarters;
- (iv) submission of the shareholding pattern for two consecutive quarters; (v) submission of financial result for two consecutive quarters;
- (vi) submission of Annual Report for two consecutive financial years;
- (vii) submit information on the reconciliation of shares and capital audit report, for consecutive quarters;
- (viii) receipt of the notice of suspension of trading of that entity by any other recognised stock exchange or any or all of the above grounds.

**3 (b) MCS Ltd. is a listed company with Bombay Stock Exchange Ltd. The Company enters into related party transactions frequently with MAP Ltd. in which one of director of MCS Ltd. holds 3% paid up capital of MAP Ltd. MCS Ltd. feels that getting the approval of Audit Committee for each transaction is time-consuming and delaying the operational plan. You, being a Company Secretary of MCS Ltd., advise the management with reference to SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 for approval of the related party transactions from the Audit Committee for next one year. Will your answer be different if MAP Ltd. is wholly owned subsidiary of MCS Ltd. ? (5 marks)**

**Answer:** According to Regulation 23 (2) of the SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015, all related party transactions shall require prior approval of the Audit Committee.

The Audit Committee may grant omnibus approval for related party transactions proposed to be entered into by the listed entity subject to the following conditions:

- (i) The audit committee shall lay down the criteria for granting the omnibus approval in line with the policy on related party transactions of the listed entity and such approval shall be applicable in respect of transactions which are repetitive in nature;
- (ii) The audit committee shall satisfy itself regarding the need for such omnibus approval and that such approval is in the interest of the listed entity;
- (iii) The omnibus approval shall specify:
  - A. the name(s) of the related party, nature of transaction, period of transaction, maximum amount of transactions that shall be entered into;
  - B. the indicated base price/current contracted price and the formula for variation in the price if any; and
  - C. such other conditions as the audit committee may deem fit.

However, where the need for related party transaction cannot be foreseen and aforesaid details are not available, audit committee may grant omnibus approval for such transactions subject to their value not exceeding rupees one crore per transaction.

(iv) The audit committee shall review, at least on a quarterly basis, the details of related party transactions entered into by the listed entity pursuant to each of the omnibus approval is given.

(v) Such omnibus approval shall be valid for a period not exceeding one year and shall require fresh approvals after the expiry of one year.

However, provisions related to the prior approval of audit committee shall not apply, in case the transactions are entered between a holding company and its wholly owned subsidiary whose accounts are consolidated with such holding company and placed before the shareholders at the general meeting for approval. Therefore, in the case of MAP Ltd. which is a wholly owned subsidiary of MCS Ltd., the approval of audit committee is not required.

### **December 2020**

**1) GK Ltd. is a listed company having paid up equity share of ₹8 crore, preference share capital of ₹5 crore and net worth of ₹15 crore as on 31st March, 2019. The management intends to implement a “Code of Conduct” for Board of directors and senior management under SEBI (LODR) Regulations, 2015. You are required to prepare a draft agenda for the Board meeting on the applicability of above provisions. Also advise on the situation, if equity share capital increase to ₹15 crore, preference share capital to ₹ 8 crore and net worth to ₹35 crore. (5 marks)**

**Solution:** As per SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015, corporate governance provisions shall apply to listed companies subject to certain exceptions. Corporate governance provisions as specified in Regulations 17 to 27 and clauses

(b) to (i) of Regulation 46(2) and para C, D and E of Schedule V shall not apply, in respect of following:

The listed entity having:

- paid up equity share capital not exceeding rupees 10 crore and
- Net worth not exceeding rupees 25 crore, as on the last day of the previous financial year.

In the given case -

Situation –I

- Paid up equity share capital is ₹8 Crore i.e. not exceeding ₹10 Crores AND
- Net worth is ₹15 Crores i.e. not exceeding 25 Crores.

Hence, regulation 17(5) for Code of Conduct of Board of Directors & Senior Management does not apply to GK Ltd.

Situation-II

If paid up equity share capital is increased to ₹15 Crores and Net worth is increased to ₹35 Crores, the regulation 17(5) for Code of Conduct for Board of Directors & Senior Management shall become applicable as it will exceed the criteria of share capital and net worth.

Note: Preference share capital do not have any bearing on the instant case.

**June 2021**

1) You are the Company Secretary of Fortune India Limited, a listed company on the leading Stock Exchange. Your Managing Directors desires a list of yearly compliances under the listing regulations. Briefly list-out the yearly compliances. (5 marks)

**Solution:** Yearly Compliances as per the SEBI (LODR) Regulations, 2015

SEBI (LODR) Regulations	Title	Particulars	Time Limit
14	Annual Listing Fees	The listed entity shall pay all such fees or charges, as applicable, to the recognised stock exchange(s), in the manner specified by SEBI or the recognised Stock Exchange (s).	Within 30 days of the end of financial year
33(3)	Financial Results	The listed entity shall submit annual audited standalone financial results along with audit report and Statement on Impact of Audit Qualifications applicable only for audit report with modified opinion to the stock exchange .	Within 60 days of the end of financial year
34	Annual Report	The listed entity shall submit the annual report along with the Notice of the Annual General Meeting to the stock exchange . Amongst others, the annual report shall also consist the following: <ul style="list-style-type: none"><li>• audited financial statements i.e. balance sheets, profit and loss accounts etc., and Statement on Impact of Audit Qualifications as stipulated in regulation 33(3)(d), if applicable</li><li>• business responsibility report by the top one thousand listed entities based on market capitalization (calculated as on March 31 of every financial year).</li></ul>	Not later than the day of commencement of dispatch to its shareholders.
34(1)(b)	Changes to the Annual Report	In case any changes to the annual report, the revised copy along with the details of and explanation for the changes shall be sent	Within 48 hours after the Annual General Meeting
36	Annual report to the Securities holders	The listed entity shall send annual report to the holders of securities	Not less than 21 days before the Annual General Meeting (in soft or hard copy)

**2) Karuna Ltd. made an Initial Public Offer (IPO) of equity shares in March, 2020 and was granted listing on stock exchange. Soon, thereafter, the promoters of the company started contemplating a change in the objects clause mentioned in the offer document. To give effect to the same, the company convened an extra-ordinary general meeting of shareholders in April 2020. Though the requisite resolution was passed by the company, there were, nevertheless, the dissenting shareholders too. The promoters decided to provide an exit opportunity to the dissenting shareholders. In the light of the above, answer the following :**

- (i) Who are the dissenting shareholders ?**
- (ii) What is the eligibility of shareholders for availing the exit offer ?**
- (iii) Enumerate the conditions required to be complied with to give effect to this recourse which was availed by the promoters.**
- (iv) How the exit offer price will be determined ? (7 marks)**

**Solution:** Dissenting Shareholders

(i) "Dissenting Shareholders" mean those shareholders who have voted against the resolution for change in Objects or variation in terms of a contract, referred to in the offer document of the issuer.

(ii) Only those dissenting shareholders of the issuer who are holding shares as on the relevant date shall be eligible to avail the exit offer.

(iii) Conditions for Exit Offer

The promoters or shareholders in control of Karuna Ltd. shall make the exit offer to the dissenting shareholders, in cases only if a public issue has opened after April 1, 2014, if :

1. The proposal for change in objects or variation in terms of a contract, referred to in the offer document is dissented by at least 10 per cent of the shareholders who voted in the general meeting; and

2. The amount to be utilized for the objects for which the offer document was issued is less than 75 % of the amount raised (including the amount earmarked for general corporate purposes as disclosed in the offer document).

(iv) The "exit price" payable to the dissenting shareholders shall be the highest of the following:

(a) The volume-weighted average price paid or payable for acquisitions, whether by the promoters or by any person acting in concert with them, during the fifty-two weeks immediately preceding the relevant date;

(b) The highest price paid or payable for any acquisition, whether by the promoters or by any person acting in concert with them, during the twenty six weeks immediately preceding the relevant date;

(c) the volume-weighted average market price of such shares for a period of sixty trading days immediately preceding the relevant date as traded on the recognised stock exchange where the maximum volume of trading in the shares of the issuer are recorded during such period, provided such shares are frequently traded;

(d) where the shares are not frequently traded, the price determined by the promoters or shareholders having control and the lead manager(s) taking into account valuation parameters including book value, comparable trading multiples, and such other parameters as are customary for valuation of shares of such issuers.

## **December 2021**

1) ABC Company Ltd. had issued 2000 equity shares of ₹80 each with attachable warrant on 20th June, 2018. The warrant can be exchanged in equity in the proportion of 1 : 1. S, a shareholder who was allotted 200 equity shares with attachable warrant on 20th June, 2018 wants to know the warrant premium if the market value of warrant is ₹18 and exercise price is ₹70.

- (i) Calculate the warrant premium for S.
- (ii) What are the conditions of eligibility of ABC Company Ltd to issue Warrant?
- (iii) When ABC Company can forfeit the warrant ? (2+2+1=5 marks)

**Solution: 1(i)** Minimum price of Warrant = (Current Market Price of equity share - Exercise Price of Warrant)

$$= \text{Rs. } 80 - \text{Rs. } 70 \text{ i.e. Rs. } 10$$

Warrant Premium

$$= (\text{Market Value of Warrant} - \text{Value of Warrant})$$

$$= \text{Rs. } 18 - \text{Rs. } 10 = \text{Rs. } 8$$

For 200 Warrants of S, since Ratio is 1:1, the premium would be = 200 x Rs. 8 = Rs. 16000

### **Solution:1(ii)**

An issuer shall be eligible to issue warrant in an initial public offer subject to the following:

- a) the tenure of such warrants shall not exceed eighteen months from the date of their allotment in the initial public offer,
- b) a specified security may have one or more warrants attached to it,
- c) the price or formula for determination of exercise price of the warrants shall be determined upfront and disclosed in the offer document and at least 25% of the consideration amount based on the exercise price shall also be received upfront;

However, in case the exercise price of warrants is based on a formula, 25% consideration amount based on the cap price of the price band determined for the linked equity shares or convertible securities shall be received upfront.

### **Solution: 1(iii)**

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

**2) X is a Managing Director of ABC Ltd. and awarded title of best CEO of the country. Four leading listed companies invited him to join their Board as an Independent Director for sharing his knowledge. Can X join as an Independent Director on the offer made by four listed entities ? Give your answer with reason. After superannuation, X is planning to join as an Independent Director of ten listed companies. Do you agree with the planning of X ?**

**Solution:** As per Regulation 17A of the SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015, any person who is serving as a whole time director / managing director in any listed entity shall serve as an independent director in not more than three listed entities.

Hence, X being the Managing Director of ABC Ltd., can join in only 3 listed companies as an independent Director.

As per Regulation 17A of the SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015, a person shall not be a director in more than eight listed entities with effect from April 1, 2019 and in not more than seven listed entities with effect from April 1, 2020. However a person shall not serve as an independent director in more than seven listed entities.

Therefore, after retirement X cannot serve as an Independent Director in ten listed companies and is restricted to only seven listed companies as stated above. Hence the planning of X is not as per the Regulations on Corporate Governance

**2) 1) Home Technology Ltd. has recently listed on the leading stock exchanges. Advise the company on the compliance of corporate governance regulation for holding of maximum number of directorship by a director of the company. If the company is having paid up capital and reserve & surplus ₹8 crore & ₹12 crore respectively, are there any exceptions in the compliances with the corporate governance under the SEBI Regulations ?**

**Solution:** Maximum Number of Directorships

Regulation 17A of the SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 provides that a person shall not be a director in more than eight listed entities with effect from April 1, 2019 and in not more than seven listed entities with effect from April 1, 2020. However, a person shall not serve as an independent director in more than seven listed entities.

Any person who is serving as a whole time director / managing director in any listed entity shall serve as an independent director in not more than three listed entities.

For the purpose of this regulation, the count for the number of listed entities on which a person is a director / independent director shall be only those whose equity shares are listed on a stock exchange.

Exceptions in the compliance with the corporate governance provisions

As per Regulation 15(2) of the SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015, the compliance with the corporate governance provisions shall not apply, in respect of following -

A listed entity having:

- paid up equity share capital not exceeding rupees 10 crore and
- net worth not exceeding rupees 25 crore, as on the last day of the previous financial year.

However, where the provisions of regulations 17 to 27, clauses (b) to (i) and (t) of sub-regulation (2) of regulation 46 and para C, D and E of Schedule V become applicable to a listed entity at a later date, it shall ensure compliance with the same within six months from such date.

Home Technology Ltd. is having paid up share capital of rupees 8 crore and having net worth (paid up capital plus + free reserve) of rupees 20 crore. Therefore, both paid up capital and

net worth are within the limit and hence the company is exempted with regards to compliance of corporate governance provisions.

**Answer 4(a)**

(i) In terms of Regulation 3(2) and 3(3) or the SEBI (SAST) Regulations, 2011, an obligation to make an open offer would arise if the acquirer (along with persons acting in concert) is already entitled to exercise 25% or more of the voting rights in an Indian listed company, and acquires additional shares or voting rights entitling it to exercise more than 5% voting rights in an Indian listed company, in a financial year. By virtue of conversion of warrants into shares, the promoter shareholding in the Company has already increased by 4.10%. Therefore, a further transfer (by way of gift) of shares constituting 1.2% of the equity share capital of the Company to an immediate relative in the same financial year would increase the gross acquisition of shares by the promoter group in excess of the 5% threshold under Regulation 3(2) of SEBI (SAST) Regulations, 2011, hence triggering the requirement to make an open offer.

(ii) In terms of the explanation to Regulation 3(2) of the SAST Regulations, while calculating the limit of 5% of shares, the gross acquisition alone is to be taken into account regardless of an intermittent fall in shareholding or voting rights. Therefore, the proposed Transfer would be considered for the purpose of calculating the creeping acquisition limit of 5% under Regulation 3(2) of the SAST Regulations.

(iii) The Transfer would qualify as an inter-se transfer between immediate relatives under Regulation 10(1)(a)(i) of the SAST Regulation subject to fulfillment of pre conditions specified therein and hence exempted from the requirement to make an open offer under the SAST Regulations. In addition the disclosure requirements have been complied with.

**JUNE 2019**

**2(b) Explain the Modes of Payment to the shareholders of the Target Company on acquisition of shares by the acquirer under SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 2011. (4 marks)**

**Answer:** As per regulation 9 of the SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 2011, the offer price may be paid, —

- (a) in cash;
- (b) by issue, exchange or transfer of listed shares in the equity share capital of the acquirer or of any person acting in concert;
- (c) by issue, exchange or transfer of listed secured debt instruments issued by the acquirer or any person acting in concert with a rating not inferior to investment grade as rated by a credit rating agency registered with the SEBI;
- (d) by issue, exchange or transfer of convertible debt securities entitling the holder thereof to acquire listed shares in the equity share capital of the acquirer or of any person acting in concert; or
- (e) a combination of the mode of payment of consideration stated in clause (a), clause (b), clause (c) and clause (d).

**2(c) An acquirer, holding 25% or more but less than maximum permissible non- public shareholding of the Target Company can acquire such additional shares as would entitle him to exercise more than 5% of the voting rights in any financial year. Explain the statement indicating the creeping acquisition limit for making an open offer by an acquirer. (4 marks)**

**Answer:** As per Regulation 3 (2) of the SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 2011, an acquirer who holds 25% or more but less than maximum permissible non-public shareholding of the Target Company, can acquire such additional shares as would entitle him to exercise more than 5% of the voting rights in any financial year ending March 31 only after making a Public Announcement to acquire minimum twenty six percent shares of Target Company from the shareholders through an Open Offer.

- An acquirer can, who has reached at a level of 25% or more and made detailed public statement to acquire = 26% shares, received in this process.
- Then acquirer in any financial year cannot take > 5% share.
- If acquirer wants to acquire > 5% share in one FY, again public offer shall be made to receive 26% (or) more shares subject to delisting level.

Example		Acquirer holding	25% ( public offer of 26%)
		Shares acquired through public offer	22%
			47% + 26%
			73%
Share acquired in FY 1		5%	5%
Share acquired in FY 2	→	5%	52%
Share acquired in FY 3	→	5%	26%
Share acquired in FY 4	→	5%	78%
Share acquired in FY 5	→	5%	75-52=23%
Share acquired in FY 6	→	3%	72%
			75%

**3(b) An unlisted public company ("Acquirer") doing business of exporting steel and it is a part of the Promoter Group of Maurya Hotels (India) Ltd. (MHIL), a company listed on stock exchange. In view of improving its efficiency, MHIL is planning to restructure its group. The Acquirer has agreed to enter into a scheme of arrangement where the shares held by the promoter group companies (eight companies) will be transferred to it. Post- merger, the shareholding of the Acquirer in the Company will increase from 2% to 24%. However, the overall promoter shareholding will remain unchanged. You, being practicing company secretary, appointed as consultant by the Acquirer, answer the following :**

- (i) Will the transfer of shares trigger an obligation to make an open offer under the SEBI (SAST) Regulations on the Acquirer ?
- (ii) What are the disclosure requirements under the SAST Regulations, if any, that the parties to the scheme will have to comply with ? (5 marks)

## CHAPTER 6 – AN OVERVIEW OF SEBI (SUBSTANTIAL ACQUISITION OF SHARES AND TAKEOVERS) REGULATIONS, 2011

June 2023

**1. What do you mean by Disinvestment? What is the time limit within which the public announcement is to be made in case of disinvestment? What are the automatic exemptions under SEBI Takeover Regulations, 2011 for disinvestment?**

**Ans -** Disinvestment means the direct or indirect sale by the Central Government or any State Government or by a government company, as the case may be, of shares or voting rights in, or control over, a target company, which is a public sector undertaking.

As per the SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 2011, pursuant to disinvestment the public announcement has to be made on the same day as the date of executing the agreement for acquisition of shares or voting rights in or control over the target company.

Regulations 8 and 10 of the SEBI (Substantial Acquisition of Shares and Takeovers) Regulations 2011, contain exemptions in relation to disinvestment.

Regulation 8 of the SEBI (Substantial Acquisition of Shares and Takeovers) Regulations 2011, states that:

- the requirements of calculation of offer price determined as per clause 8 (2) (d) in case of direct acquisition of shares or voting rights shall not apply in the case of disinvestment of a public sector undertaking by the Central Government or a State Government, as the case may be and that this shall apply only in case of a change in control in the public sector undertaking.
- the requirements of calculation of offer price determined as per clause 8 (3)(e) in case of indirect acquisition of shares or voting rights shall not apply in the case of disinvestment of a public sector undertaking by the Central Government or a State Government, as the case may be and that this shall apply only in case of a change in control in the public sector undertaking.

Regulation 10 of the SEBI (Substantial Acquisition of Shares and Takeovers) Regulations 2011, states that acquisitions at subsequent stages, by an acquirer who has made a public announcement of an open offer for acquiring shares pursuant to an agreement of disinvestment, as contemplated in such agreement be exempt from the obligation to make an open offer under regulation 3 and regulation 4 subject to the following conditions:

- both the acquirer and the seller are the same at all the stages of acquisition; and
- full disclosures of all the subsequent stages of acquisition, if any, have been made in the public announcement of the open offer and in the letter of offer.

**2. M is contemplating acquisition of PQR Limited, a listed entity. He presently holds 23% and his sister, who is having common objective, holds 3%. Their combined holding is 26%. M, in view of creeping acquisition limits, desires to acquire further 3% on the assumption that 5% is the ceiling for such acquisition in every financial year. Will M be required to make open offer ?**

**Ans -** As per regulation 3(1) of the SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 2011, no acquirer shall acquire shares or voting rights in a target company which taken together with shares or voting rights, if any, held by him and by persons acting in concert with him in such target company, entitles them to exercise 25% or more of the voting rights in such target company unless the acquirer makes a public announcement of an open offer for acquiring shares of such target company in accordance with these regulations.

Further, in accordance with regulation 3(2), no acquirer, who together with persons acting in concert with him, has acquired and holds shares or voting rights in a target company entitling them to exercise 25% or more of the voting rights in the target company but less than the maximum permissible non-public shareholding, shall acquire within any financial year additional shares or voting rights in such target company entitling them to exercise more than 5% of the voting rights, unless the acquirer makes a public announcement of an open offer for acquiring shares of such target company.

As per Regulation 3(3), acquisition of shares by any person, such that the individual shareholding of such person acquiring shares exceed the stipulated threshold, shall also be attracting the obligation to make an open offer for acquiring shares of the target company irrespective of where there is a change the aggregate shareholding with persons action in concert.

In view of the above-mentioned provisions, though together they hold 26% and can avail 5% ceiling but M on individual basis crossing the threshold of 25% or more since presently he holds 23% and further contemplates to acquire 3% more. Therefore, M will be required to make an open offer.

**June 2022**

(a) **MX Ltd. (Target Company) is a listed company. The company has 2 promoters, namely Namita and Sunita who holds paid up equity shares representing 29% and 40% respectively, making the aggregate shareholding of the promoters in the Target company 69%. On 15th February, 2018, Target company allotted 75,00,000 convertible warrants to Namita on preferential basis with due approval from Stock Exchange. These warrants were converted into equity on 30th June, 2018. Pursuant to the conversion, the shareholding of Namita increased from 29% to 37% of the paid up share capital of the Target company. However, during 20th June, 2018 to 25th June, 2018, Sunita sold some shares, thereby reducing the overall promoters shareholding from 69% to 68% of the paid up share capital of the Target company**

**In view of the above facts, answer the following questions :**

**(i) Would Namita be required to make an open offer under the SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 2011 ("SAST Regulations") ?**

**(ii) Would the obligation to make an open offer apply to Namita in view of the fact that the aggregate promoters shareholding post conversion, does not breach the stipulated thresholds under the SAST Regulations ?**

**(iii) What are the disclosure requirements under the SAST Regulations, if any that Namita will have to comply with ? (8 marks)**

**Ans-**

The SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 2011 ('SAST Regulations') set out the events that trigger an obligation to make an open offer on the acquirer (along with persons acting in concert). Trigger points for making an open offer by an acquirer are as follows:

- An acquirer, along with Persons acting in concert (PAC), if any, who intends to acquire shares which along with his existing shareholding would entitle him to exercise 25% or more voting rights, can acquire such additional shares only after making a Public Announcement (PA) to acquire minimum twenty six percent shares of the Target Company from the shareholders through an Open Offer. [Regulation 3(1)]

- An acquirer who holds 25% or more but less than maximum permissible non-public shareholding of the Target company, can acquire such additional shares as would entitle him to exercise more than 5% of the voting rights in any financial year only after making a public announcement to acquire minimum twenty six percent shares of Target company from the shareholders through an Open Offer. [Regulation 3(2)]

(i) Since Namita already holds 29% shares in the Target Company MX Limited, which is above the 25% limit specified in Regulation 3(2) of the SEBI (Substantial Acquisition of Shares and Takeover) Regulations, 2011, and by virtue of conversion of warrants, has acquired an additional 8% of the paid up share capital of the MX Limited, which is above the 5% limit specified in Regulation 3(2) of the said Regulations, she is required to make a public announcement of an open offer under Regulation 3(2) of the SAST Regulations

(ii) Explanation to Regulation 3(2) of the SAST Regulations states that-  
For the purpose of determining the quantum of acquisition of additional voting rights, the gross acquisitions alone shall be taken into account regardless of any intermittent fall in shareholding or voting rights whether owing to disposal of shares held or dilution of voting rights owing to fresh issue of shares by the target company

Further Regulation 3(3) of the SAST Regulations provides that acquisition of shares by any person, such that the individual shareholding of such person acquiring shares exceed the stipulated thresholds, shall also be attracting the obligation to make an open offer for acquiring shares of the target company irrespective of where there is a change in the aggregate shareholding with persons acting in concert.

Hence, in view of the above provisions requiring gross acquisition and individual shareholding to consider for the purpose of the SAST Regulations, even though the conversion of warrants by Namita does not cause the aggregate promoter shareholding to breach the stipulated thresholds i.e. 5% under Regulation 3(2), Namita, in his individual capacity would be required to make an open offer under Regulation 3(2) of the SAST Regulations.

(iii) Namita will be required to make a disclosure of change in shareholding under Regulation 29(2) of the SAST Regulations. According to Regulation 29(2), any person together with persons acting in concert with him, holds shares or voting rights entitling them to five per cent or more of the shares or voting rights in a target company, shall disclose the number of shares or voting rights held and change in shareholding or voting rights, even if such change results in shareholding falling below five per cent, if there has been change in such holdings from the last disclosure made and such change exceeds two per cent of total shareholding or voting rights in the target company.

The disclosures shall be made within two working days of the receipt of intimation of allotment of shares, or the acquisition or the disposal of shares or voting rights in the target company to—

(a) every stock exchange where the shares of the target company are listed; and the target company at its registered office.

## **DECEMBER 2019**

**3(b) Nalin Estates Ltd. (“Target Company”) is a listed company. The promoter group shareholding in the target company is 47%. It proposes to transfer of 2% shares held by one promoter group to another promoter group.**

**The target company sought your advise as a practicing Company Secretary on the applicability of exemption provided under SEBI (SAST) Regulations for making compulsory open offer. (5 marks)**

**Answer:** As per Regulation 10(a)(ii) of the SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 2011, the following acquisitions shall be exempt from the obligation to make an open offer under regulation 3 and regulation 4 of the of SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 2011 subject to fulfillment of the conditions stipulated .

(a) acquisition pursuant to inter se transfer of shares amongst qualifying persons, being, persons named as promoters in the shareholding pattern filed by the target company in terms of the listing agreement or these regulations for not less than three years prior to the proposed acquisition.

**4 (a) Visualsight Ltd. is a listed company. The promoters hold 61.50% paid up equity share capital as on 31st March, 2018. On November 2, 2018, some of the promoters who hold convertible warrants in the company converted 1500000 warrants into shares, as result of which the holding of promoters increased by 4.10%. Vihaan (“Transferor”), one of the promoters holds 18.50% of equity share capital in the company proposed to gift 1.20% equity shares of the company to immediate relative by way of Transferor. Taking into account SEBI (SAST) regulations, answer the following questions in detail :**

- (i) Whether the proposed transfer trigger an obligation upon the Transferor for open offer?**
  - (ii) Will the transaction covered under creeping acquisition?**
  - (iii) Would the promoters be permitted to avail any exemption under the regulation?**
- (4+2+2=8 marks)**

### **Answer 3(b)**

(i) Regulations 3, 4 and 5 of the SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 2011 set out the events that trigger an obligation to make an open offer on the acquirer (along with persons acting in concert). The said triggers points are as follows:

- Acquisition (directly or indirectly) of such shares or voting rights in an Indian listed company whereby the acquirer becomes entitled to exercise 25% or more of the voting rights in such Indian listed company;
- Where an acquirer (along with persons acting in concert with him) is already entitled to exercise 25% or more of the voting rights in an Indian listed company, and acquires (directly or indirectly) additional shares or voting rights entitling an acquirer to exercise more than 5% voting rights in an Indian listed company, in a financial year; and
- Acquisition (directly or indirectly) of control.

Since the Acquirer, in the above facts, does not attract any of the triggers set out above, the transfer of shares will not impose any obligation on the Acquirer to make an open offer under the SEBI (SAST) Regulations.

(ii) The Acquirer and promoter group companies will be required to make a disclosure of change in shareholding under Regulation 29(2) of the SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 2011. According to Regulation 29(3) of the said regulations, the disclosure should be made within 2 working days of such acquisition or the disposal to the target company at its registered office and to the stock exchanges where the shares of the target company are listed.

### **December 2020**

**1) Romeo International Limited, an Indian public limited company, is listed on BSE. On Friday i.e. 14th December, 2018 one of the shareholders of the Company, Ganesh, who was already holding 30% stake in the company, made a public announcement for an open offer for the acquisition of 13 crore equity shares (Face value ₹10 each), constituting 26% of the equity share capital of the Romeo International Limited. The offer price per share according to Takeover Regulations is arrived at ₹500 per share. Explain the following with reference to SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 2011:**

- (a) What is the time limit for depositing amount in escrow account and explain with the relevant provisions, what amount should be deposited in escrow account in this case?**
- c) Explain the forms of maintaining the escrow account. (5 marks)**

**Solution:** The acquirer shall create an escrow account towards security for performance of his obligations under SEBI (SAST) Regulations, 2011, not later than 2 working days prior to the date of the detailed public statement of the open offer for acquiring shares.

In the given case the escrow account should be created on or before December 12, 2018. The deposit in escrow account shall be calculated as below based on consideration payable under the Open offer:

- i. On the first ₹500 crores -an amount equal to 25% of the consideration
- ii. On the balance consideration - An additional amount equal to 10% of the balance consideration

Consideration payable in given case = 13 crore equity shares x ₹500 = ₹6500 crore

Amount to be deposited in Escrow Account:

$(₹500 \text{ crore} \times 25\%) + (₹6000 \text{ crore} \times 10\%) = 125 + 600 = ₹725 \text{ Crore.}$

- (b) The escrow account may be in the form of:
- (a) Cash deposited with any scheduled commercial bank;
  - (b) Bank guarantee issued in favour of the manager to the open offer by any scheduled commercial bank; or
  - (c) Deposit of frequently traded and freely transferable equity shares or other freely transferable securities with appropriate margin.

2) Nova Industries Ltd. ('Nova') is an Indian company engaged in the business of manufacturing of Automotive Equipments. The equity shares of the 'Nova' are listed on NSE. Star Investment Ventures Ltd. ('Star') owns 16% stake in the Nova. Moon Investment Company Pvt. Ltd. ('Moon') owns 14% stake in the Nova. Star and Moon have also been classified as promoters of the Nova in its shareholding pattern for over 5 years. As decided by the management of Star and Moon, it is proposed that Moon will be absorbed by Star through a scheme of arrangement, pursuant to which Star's shareholding in the Nova will increase from 16% to 30% as the shares held by Moon will be transferred to Star and vested in Star and their shareholders will become shareholders of Star. The entire consideration for the amalgamation would be discharged by Star by the issue of its shares. The scheme is likely to be completed and approved by the National Company Law Tribunal sometime during the financial year 2019-2020.

(i) Explain the provisions and conditions given under regulation 10(1)(d)(iii) of SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 2011 for availing the exemption.

(ii) Would the transfer and vesting of shares of the Nova in Star, be exempt from open offer obligations ? (5 marks)

**Solution:**

(i) Regulation 10(1)(d)(iii) of the SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 2011, the acquisition of shares of the Target company pursuant to a scheme of arrangement sanctioned by the National Company Law Tribunal provides an exemption to an acquirer from making an open offer subject to the following conditions:

a. The consideration paid in terms of cash and cash equivalents is less than 25% of the consideration paid under the scheme; and

b. Post implementation of the scheme, the persons holding at least 33% of voting rights in the combined entity are the same as the persons who held the entire voting rights before the implementation of the scheme.

(ii) Star is eligible to avail this exemption under Regulation 10(1)(d)(iii) of the SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 2011 since:

(i) The acquisition of shares of the Target Company is being made pursuant to a scheme of arrangement sanctioned by the NCLT.

(ii) The entire consideration is being discharged by Star by issue of its shares, there is no portion of the consideration being paid in terms of cash and cash equivalents.

(iii) Post-merger, since Star will issue its shares to the shareholders of Moon, such shareholders will hold more than 33% stake in Star.

**June 2021**

**1) “An open offer for acquiring shares once made shall not be withdrawn.” Comment on the statement. (5 marks)**

**Solution:**

The given statement is not correct. As per the SEBI (Substantial Acquisition of Shares & Takeover) Regulations, 2011, an open offer for acquiring shares once made can be withdrawn under any of the following circumstances:

a) Statutory approvals required for the open offer or for effecting the acquisitions attracting the obligation to make an open offer under these regulations having been finally refused, subject to such requirements for approval having been specifically disclosed in the detailed public statement and the letter of offer;

b) The acquirer, being a natural person, has died;

c) Any condition stipulated in the agreement for acquisition attracting the obligation to make the open offer is not met for reasons outside the reasonable control of the acquirer, then it should be disclosed in the detailed public statement and the letter of offer;

However, an acquirer shall not withdraw an open offer pursuant to a public announcement, even if the proposed acquisition through the preferential issue is not successful.

d) Such circumstances as in the opinion of the SEBI, merit withdrawal.

SEBI shall pass a reasoned order permitting withdrawal and such order shall be listed by SEBI on its official website.

**2) Suzan Limited is in top 1000 listed companies. Referring to provisions of SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015, the Board of directors seeks your advice as a company secretary regarding the following two matters :**

**(i) Quorum in Board meeting**

**Maximum number of directorship in a listed entity by a director. (4 marks)**

**Solution:** The quorum for every meeting of the board of directors of the top 1000 listed entities with effect from April 1, 2019 and of the top 2000 listed entities with effect from April 1, 2020 shall be one-third of its total strength or three directors, whichever is higher, including at least one independent director.

Thus, keeping in mind the above provisions, Suzan Limited is required to comply with above provisions with respect to quorum in board meeting with effect from 1st April, 2019.

(i) SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 provides that the directors of listed entities shall comply with the following conditions with respect to the maximum number of directorships, including any alternate directorships that can be held by them at any point of time :

A person shall not be a director in more than eight listed entities with effect from April 1, 2019 and in not more than seven listed entities with effect from April 1, 2020. However, a person shall not serve as an independent director in more than seven listed entities.

Further, any person who is serving as a whole time director / managing director in any listed entity shall serve as an independent director in not more than three listed entities.

For the purpose of this sub-regulation, the count for the number of listed entities on which a person is a director / independent director shall be only those whose equity shares are listed on a stock exchange

**3) SEBI (LODR) Regulations, 2015 as amended imposes an obligation on every listed company to constitute Nomination & Remuneration Committee and Risk Management Committee. Briefly explain the constitution and role of these committees. (4 marks)**

**Solution:** Nomination and remuneration committee [Regulation 19 of SEBI (LODR) Regulations, 2015]

- The Nomination and Remuneration committee shall comprise of at least three directors;
- All directors of the committee shall be non-executive directors;
- At least fifty percent of the directors shall be independent directors and in case of a listed entity having outstanding SR equity shares, two thirds of the nomination and remuneration committee shall comprise of independent directors;
- The Chairperson shall be an independent director;
- The quorum for a meeting of the nomination and remuneration committee shall be either two members or one third of the members of the committee, whichever is greater, including at least one independent director in attendance;
- Nomination and Remuneration Committee plays a key role in formulation of the criteria for determining qualifications, positive attributes and independence of a director and recommend to the Board of directors a policy relating to, the remuneration of the directors, key managerial personnel and other employees.

Risk Management Committee [Regulation 21 of SEBI (LODR) Regulations, 2015]

- Applicable to top 500 listed entities determined on the basis of market capitalization, as at the end of the immediate previous financial year;
- The majority of members shall consist of members of the Board of directors. However, in case of a listed entity having outstanding SR equity shares, at least two thirds of the Risk Management Committee shall comprise of independent directors;
- The Chairperson of the Risk management committee shall be a member of the Board of directors and senior executives of the listed entity may be members of the committee;
- The committee shall meet at least once in a year;
- The Board of directors shall define the role and responsibility of the Risk Management Committee and may delegate monitoring and reviewing of the risk management plan to the committee and such other functions as it may deem fit (such function shall specifically cover cyber security).

**4) What are the recognitions given to Company Secretary in Practice for providing various certifications/reports as required under SEBI (LODR) Regulations ? Explain briefly. (4 marks)**

**Solution:** The SEBI (LODR) Regulations, 2015 has given the following recognitions to Company Secretary in practice:

1. Certificate regarding Transfer of Securities [Regulation 40(9)]

Certification to the effect that all transfers have been completed within the stipulated time.

2. Secretarial Audit Report [Regulation 24A]

Every listed entity and its material unlisted subsidiaries incorporated in India shall undertake Secretarial Audit and shall annex with its Annual Report, a Secretarial Audit Report, given by a Company Secretary in Practice, in such form as may be specified with effect from the year ended March 31, 2019.

3. Certificate Regarding Compliance of Conditions of Corporate Governance under SEBI (LODR) Regulations [Schedule V]

The Regulations authorize Company Secretary in Practice to issue certificate regarding compliance of conditions of Corporate Governance.

4 Certification regarding Director's Disqualification [Schedule V]

A certificate from a Company Secretary in Practice that none of the directors on the Board of the company have been debarred or disqualified from being appointed or continuing as Directors of Companies by the Board/ Ministry of Corporate Affairs or any such Statutory Authority

**5) What do you mean by Enterprise value under SEBI Takeover code ? From the given information, calculate the Enterprise value of KRS Ltd. :**

- Outstanding equity share capital ₹1,600 lakh (par value per share ₹2)
- Market price per share on closing date (equity share) : ₹125
- Reserves & Surplus ₹195 lakh, Minority interest ₹275 lakh, Preference share capital ₹4,200 lakh, Cash-in-hand ₹72 lakh, Cash equivalent ₹ 63 lakh, Other current assets ₹1,965 lakh. (5 marks)

**Solution:** Enterprise value

As per SEBI Takeover Regulations, Enterprise value means the value calculated as market capitalization of a company plus debt, minority interest and preferred shares, minus total cash and cash equivalents.

Calculation of Enterprise value of KRS Ltd.

Enterprise Value = Market capitalization+ Debt+ Minority Interest + Preferred Shares - Total Cash and Cash Equivalents

Number of equity shares= ₹1600 lakh / ₹2 i.e. 800 lakh

Market Capitalization = 800 lakh x ₹125 i.e. ₹1,00,000 lakh

Enterprise Value = ₹100000 lakh + ₹275 lakh + ₹4200 lakh – (₹72 lakh + ₹ 63 lakh)

Enterprise Value = ₹1,04,340 lakh

### **December 2021**

**1) Turnkey Ltd. is a listed company, manufacturing auto ancillary components. One of the director of the company is a fugitive offender. The company wants to bring Further Public Offer (FPO). You being the company secretary of the company, advise whether the company can issue FPO. State the general conditions and the eligibility requirements for FPO under SEBI Regulations. (8 marks)**

**Solution:** As per Regulation 102 of the SEBI (Issue of Capital and Disclosure Requirements) Regulations, 2018, a company shall not be eligible to make a Further Public Offer where the director of the company is a fugitive offender. Therefore, Turnkey Ltd. would not be able to issue FPO.

General Conditions and eligibility requirement for FPO as prescribed under Regulations 103 and 104 of the SEBI (Issue of Capital and Disclosure Requirements) Regulations, 2018 are given below:

Eligibility requirements for FPO

An issuer may make a FPO if it has changed its name within the last one year and at least 50% of the revenue in the preceding one full year has been earned from the activity suggested by the new name.

If an issuer does not satisfy the above mentioned conditions, it may make a FPO only, if, the issue is made through the book building process and the issuer undertakes to allot at least 75% of the net offer, to qualified institutional buyers and to refund full subscription money if it fails to make the said minimum allotment to qualified institutional buyers.

General Conditions for FPO

An issuer making an FPO shall ensure that-

- a) An application is made for listing of the specified securities to one or more of the recognised stock exchanges and choose one of the exchanges as the designated stock exchange.

- a) An agreement is entered into with a depository for dematerialisation of specified securities already issued or proposed to be issued.
- b) All the existing partly paid up equity shares have either been fully paid up or have been forfeited in other words, if a company has partly paid up equity shares, they shall not be permitted to make a public issue.
- c) The issuer should make firm arrangements of finance through verifiable means towards 75% of the stated means of finance excluding the amount to be raised through the proposed public issue or through existing identifiable internal accruals.
- d) The amount of General Corporate Purpose as mentioned in objects of the issue in the draft offer document and the offer document shall not exceed twenty five percent of the amount being raised by the issuer.

## CHAPTER 7 – SEBI (BUYBACK OF SECURITIES) REGULATIONS, 2018

**June 2023**

1. The financial information of a listed company as on 31st March, 2018 is as follows : Authorized equity share capital ₹ 10 crore (1 crore shares of ₹ 10 each); Paidup equity share capital ₹ 5 crore; General reserve ₹ 3 crore; and Debenture redemption reserve ₹ 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 Buy-back Regulations.

**Ans** - 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:

- The buy-back is authorised by the company's articles;
- A special resolution has been passed at a general meeting of the company authorizing the buy- back.

However, such special resolution is not required, where the buy- back is, 10% or less of the total paid-up equity capital and free reserves of the company and such buy-back has been authorized 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 the above- mentioned regulation, the board resolution should be passed at the meeting of board of directors and not through circulation. Therefore, with reference to the above stated provisions, the proposal of buy-back is not-valid.

2. NLR Ltd. approved buy-back proposal of 2,00,000 Equity Share in its Board meeting on 25th April 2019. The record date was fixed on 25th June, 2019. The closing market price on NSE as on 25th April, 2019 and 25th June, 2019 was ₹ 2640.40 and ₹ 2514.05 respectively. Determine the number of equity shares which is eligible to be tendered by Small Shareholders' Category (rounded off to lower whole number). Calculate the maximum equity share capital and number of equity shares that can be bought back.

**Ans –**

As per regulation 2(i)(n) of the SEBI (Buy-Back of Securities) Regulations, 2018, "small shareholder" means a shareholder of a company, who holds shares or other specified securities whose market value, on the basis of closing price of shares or other specified securities, on the recognized stock exchange in which highest trading volume in respect of such securities, as on record date is not more than two lakh rupees. The closing price on record date is ₹ 2514.05. The number of shares eligible for buy back under small shareholder category will be  $\frac{200000}{₹2514.05} = 79.55$  shares.

79.55 shares rounded off to lower whole number i.e. 79 shares. Hence, equity shareholders holding not more than 79 shares of NLR Ltd. shall be classified as Small Shareholders.

In accordance with the provisions to the Regulation 6 of the SEBI (Buy-Back of Securities) Regulations, 2018, a company may buy-back its shares or other specified securities from its existing securities holders on a proportionate basis. However, fifteen percent of the number of securities which the company proposes to buy-back or number of securities entitled as per their shareholding whichever is higher, shall be reserved for small shareholders.

In terms of the above mentioned provision, the total shares reserved for small shareholders under the offer will be  $200,000 \times 15\% = 30,000$  shares.

Maximum Equity Share Capital = Number of Equity Shares for small shareholders x Closing Market Price on Record Date

$$= 30,000 \times ₹ 2514.05 = ₹ 7,54,21,500$$

**3. The financial data of a listed company Sun Rise Ltd. as on 31st March, 2021 is as follows:**

Equity Share Capital (fully paid-up of face value of ₹ 10 each)	₹ 5, 00,000
10% Preference Share Capital (fully paid-up of ₹ 100 each)	₹ 1, 00,000
12% Debentures (₹ 100 each)	₹ 2,00,000
Revaluation Reserve	₹ 50,000
General Reserve	₹ 2,00,000
Profit & Loss Account	₹ 2,00,000

The company wanted to place proposal before the Board for buy-back of its equity shares and also simultaneously redeem the entire preference share capital. You, as a Company Secretary, advise the Board on the following issues:

(i) Maximum limit (in amount) up to which shareholders can approve buy-back of shares.

(ii) Maximum number of shares that can be bought back and the maximum price that can be paid per equity share bought back.

Generally, what should be the ratio of the aggregate of secured and unsecured debts owed to the company after buy-back?

**Ans -**

(i) According to regulation 4 of the SEBI (Buy-Back of Securities) Regulations, 2018, the maximum limit of any buy-back shall be 25% or less of the aggregate of paid-up capital and free reserves of the company, based on the standalone or consolidated financial statements of the company, whichever sets out a lower amount.

In the given situation, the maximum buy back limit will be:

Equity Share Capital = ₹ 5,00,000  
10% Preference Share Capital = ₹ 1,00,000  
General Reserve = ₹ 2,00,000

Profit & Loss Account = ₹ 2,00,000

Total = ₹ 10,00,000

Maximum amount of buy back by Sun Rise Ltd. through special resolution:

$$₹10,00,000 \times 25\% = ₹ 2,50,000$$

(ii) In respect of the number of equity shares bought back in any financial year, the maximum limit shall be 25% and be construed with respect to the total paid-up equity share capital of the company in that financial year.

Maximum number of equity shares that can be bought back:

$$(₹ 5,00,000 / ₹ 10 \text{ face value}) \times 25\% = 12,500 \text{ shares}$$

Maximum price that can be paid per equity share bought back:

$$₹ 2,50,000 / 12,500 \text{ shares} = ₹ 20 \text{ per equity share}$$

(iii) The ratio of the aggregate of secured and unsecured debts owed by the company to the paid up capital and free reserves after buy-back shall-

(i) be less than or equal to 2:1, based on both standalone and consolidated financial statements of the company. However, if a higher ratio of the debt to capital and free reserves for the company has been notified under the Companies Act, 2013, the same shall prevail; or

(ii) be less than or equal to 2:1 based on both standalone and consolidated financial statements of the company, after excluding financial statements of all subsidiaries that are non-banking financial companies and housing finance companies regulated by Reserve Bank of India or National Housing Bank as the case may be. However, buy-back of securities shall be permitted only if all such excluded subsidiaries have their ratio of aggregate of secured and unsecured debts to the paid up capital and free reserves of not more than 6:1 on standalone basis.

### **June 2022**

**(a) Amber Ltd. is a listed company on the leading stock exchange of the country. The company has substantial bank balances in the financial statement for the Financial Year 2020-21. There is no foreseeable investment opportunity with the company. Hence the management decided to buy-back its equity shares from the market. As a Company Secretary, prepare a note to the Managing Director enumerating the conditions for buy-back of shares with reference to SEBI (Buy-Back of Securities) Regulations, 2018.**

#### **Ans-**

#### **Note to Managing Director of Amber Ltd.**

Sir,

This is reference to the conditions for buy-back of shares with reference to the SEBI (Buy-Back of Securities) regulations, 2018.

The said Regulations shall be applicable to buy-back of shares or other specified securities of a company in accordance with the applicable provisions of the Companies Act, 2013. Accordingly following condition are framed for buy-back of shares and specified securities.

(i) The maximum limit of any buy-back shall be 25% or less of the aggregate of paid-up capital and free reserves of the company based on both standalone and consolidated financial statements of the company.

(ii) The ratio of the aggregate of secured and unsecured debts owed by the company to the paid-up capital and free reserves after buy-back shall,-

a) be less than or equal to 2:1, based on both standalone and consolidated financial statements of the company:

However if a higher ratio of the debt to capital and free reserves for the company has been notified under the Companies Act, 2013, the same shall prevail; or

b) be less than or equal to 2:1, based on both standalone and consolidated financial statements of the company, after excluding financial statements of all subsidiaries that are non-banking financial companies and housing finance companies regulated by Reserve Bank of India or National Housing Bank, as the case may be:

However buy-back of securities shall be permitted only if all such excluded subsidiaries have their ratio of aggregate of secured and unsecured debts to the paid-up capital and free reserves of not more than 6:1 on standalone basis.

(iii) All shares or other specified securities for buy-back shall be fully paid-up.

(iv) A company may buy-back its shares or other specified securities by any one of the following methods:

- a) from the existing share holders or other specified securities holders on a proportionate basis through the tender offer;
- b) from the open market through—
  - i) book-building process,
  - ii) stock exchange;
- c) from odd-lot holders:

Provided that the buyback from open market shall be less than fifteen percent of the paid up capital and free reserves of the company, based on both standalone and consolidated financial statements of the company.

- (v) A company shall not buy-back its shares or other specified securities:
  - (a) so as to delist its shares or other specified securities from the stock exchange.
  - (b) from any person through negotiated deals, whether on or off the stock exchange or through spot transactions or through any private arrangement.
- (vi) A company shall not make any offer of buy-back within a period of one year reckoned from the date of expiry of buy-back period of the preceding offer of buy-back, if any.
- (vii) A company shall not allow buy-back of its shares unless the consequent reductions of its share capital is effected.
- (viii) A company may undertake a buy-back of its own shares or other specified securities out of—
  - (a) its free reserves;
  - (b) the securities premium account; or
  - (c) the proceeds of the issue of any shares or other specified securities.

Buy-back shall not be made out of the proceeds of an earlier issue of the same kind of shares or same kind of other specified securities.

- (ix) The company shall not directly or indirectly purchase its own shares or other specified securities:
  - (a) through any subsidiary company including its own subsidiary companies;
  - (b) through any investment company or group of investment companies; or
  - (c) if a default is made by the company in the repayment of deposits accepted either before or after the commencement of the Companies Act, interest payment thereon, redemption of debentures or preference shares or payment of dividend to any shareholder, or repayment of any term loan or interest payable thereon to any financial institution or banking company.

The buy-back is not prohibited, if the default is remedied and a period of three years has lapsed after such default ceased to subsist.

**(b) An extract of Balance Sheet of Airrath Aviation Ltd., comprises of :**

<b>Equity Share Capital</b>	<b>₹30,00,000 of ₹50 each</b>
<b>12% Preference Share Capital</b>	<b>₹5,00,000 of ₹500 each</b>
<b>14% Debenture capital</b>	<b>₹15,00,000 of ₹500 each</b>

**(1) Ascertain the maximum equity share capital and the number of equity shares that can be bought back in the present case**

**(2) What is meant by buy-back through tender offer under SEBI (Buy-Back of Securities) Regulations, 2018.**

**Ans-**

(1) Ascertainment of maximum equity share capital of Airrath Aviation Ltd., that can be bought back-

$$= 30,00,000 \times 25/100 = ₹7,50,000$$

Maximum number of equity shares of Airrath Aviation Ltd., that can be bought back-

₹7,50,000 / ₹50

= 15,000 equity shares

(2) Buy-back through Tender Offer under SEBI (Buy-Back of Securities) Regulations, 2018

‘Tender Offer’ means an offer by a company to buy-back its own shares or other specified securities through a letter of offer from the holders of the shares or other specified securities of the company;

A company may buy-back its shares or other specified securities from its existing securities holders on a proportionate basis in accordance with the provisions of the SEBI (Buy-Back of Securities) Regulations, 2018.

However 15% of the number of securities which the company proposes to buy-back or number of securities entitled as per their shareholding, whichever is higher, shall be reserved for small shareholders

## **DECEMBER 2019**

**4 (b) RN Ltd., has equity share capital of 20,00,000 of face value of ₹10 each, listed in Bombay Stock Exchange. The company has proposed for buy-back of its shares up to 25%. As a Company Secretary explain the conditions for buy-back of shares. (7 marks)**

**Answer 4(b) Conditions for buy-back of securities**

As per regulation (4) of SEBI (Buyback of Securities), Regulations, 2018

(i) The maximum limit of any buy-back of shares shall be twenty five percent or less of the aggregate of paid-up capital and free reserves of the company.

(ii) The ratio of the aggregate of secured and unsecured debts owed by the company after buy-back shall not be more than twice the paid-up capital and free reserves.

If a higher ratio of the debt to capital and free reserves for the company has all shares or other specified securities for buy-back shall be fully paid-up been notified under the Companies Act, 2013, the same shall prevail.

(iii) All shares or other specified securities for buy-back shall be fully paid up. In respect of the buy-back of equity shares in any financial year, the reference to 25% in this regulation shall be construed with respect to its total paid-up equity capital in that financial year.

(iv) A company may buy-back its shares or other specified securities by any one of the following methods:

(a) from the existing shareholders or other specified securities holders on a proportionate basis through the tender offer;

(b) from the open market through —

(i) book-building process,

(ii) stock exchange;

(c) from odd-lot holders:

Provided that no offer of buy-back for fifteen per cent or more of the paid up capital and free reserves of the company shall be made from the open market.

(v) A company shall not buy-back its shares or other specified securities so as to delist its shares or other specified securities from the stock exchange.

(vi) A company shall not buy-back its shares or other specified securities from any person through negotiated deals, whether on or off the stock exchange or through spot transactions or through any private arrangement.

(vii) A company shall not make any offer of buy-back within a period of one year reckoned from the date of expiry of buyback period of the preceding offer of buy-back, if any.

(viii) A company shall not allow buy-back of its shares unless the consequent reduction of its share capital is effected.

(ix) A company may undertake a buy-back of its own shares or other specified securities out of—

(a) its free reserves;

(b) the securities premium account; or

(c) the proceeds of the issue of any shares or other specified securities:

Provided that no such buy-back shall be made out of the proceeds of an earlier issue of the same kind of shares or same kind of other specified securities.

Additional/ General Conditions for Buyback of Shares or Other Securities

(i) The company shall not authorise any buy-back unless:

(a) The buy-back is authorised by the company's articles;

(b) A special resolution has been passed at a general meeting of the company authorising the buyback:

Provided that nothing contained in this clause shall apply to a case where the buy- back is, ten per cent or less of the total paid-up equity capital and free reserves of the company; and such buy-back has been authorised by the board of directors by means of a resolution passed at its meeting.

(ii) Every buy-back shall be completed within a period of one year from the date of passing of the special resolution at general meeting, or the resolution passed by the board of directors of the company, as the case may be.

(iii) The company shall, after expiry of the buy-back period, file with the Registrar of Companies and the SEBI, a return containing such particulars relating to the buy-back within thirty days of such expiry, in the format as specified in the Companies (Share Capital and Debentures) Rules, 2014.

(iv) A copy of the resolution passed at the general meeting under sub-section (2) of section 68 of the Companies Act, 2013 shall be filed with the Board and the stock exchanges where the shares or other specified securities of the company are listed, within seven days from the date of passing of the resolution.

**JUNE 2019**

**1 (d) Can a Company buy-back its own shares or any specified securities through negotiated deals or through any private arrangements ? Comment with methods allowed for buy-back. (5 Marks)**

**Answer 1(d)** As per Regulation 4 (vi) of the SEBI (Buy-back of Securities) Regulations, 2018, a company shall not buy-back its shares or other specified securities from any person through negotiated deals, whether on or off the stock exchange or through spot transactions or through any private arrangement.

As per Regulation 4 (iv) of the SEBI (Buy-back of Securities) Regulations, 2018, a company may buyback its shares or other specified securities by any one of the following methods:

- (a) from the existing shareholders or other specified securities holders on a proportionate basis through the tender offer;
- (b) from the open market through —
  - (i) book-building process,
  - (ii) stock exchange;
- (c) from odd -lot holders.

**2A iv) The financial data of a listed company as on 31st March, 2018 are as follows:**

<b>Authorized equity share capital</b>	<b>₹10 crore (1 crore shares of ₹10 each)</b>
<b>Paid-up equity share capital</b>	<b>₹ 5 crore</b>
<b>General reserve</b>	<b>₹ 3 crore</b>
<b>Debenture redemption reserve</b>	<b>₹ 2 crore</b>

**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. (4 Marks)**

**Answer 2A(iv)** The financial data of a listed company as on 31st March, 2018 are as follows:

Authorized equity share capital	Rs. 10 crores (1 crore shares of Rs. 10 each)
Paid- up equity share capital	Rs. 5 crores
General reserve	Rs. 3 crores
Debenture redemption reserve	Rs. 2 crores

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.

## **DECEMBER 2018**

### **6 (b) Book closure and record date ( 3 Marks)**

**Answer 6(b)** Book closure is the periodic closer of the Register of Members and Transfer Books of the company, to take a record of the shareholders to determine their entitlement to dividend or to bonus or right shares or any other rights pertaining to shares.

Record date is the date on which the records of a company are closed for the purpose of determining the stockholders to whom dividends, proxies rights etc. are to be sent.

In accordance with Section 91 of the Companies Act, 2013 a company may close the register of members for a maximum of 45 days in a year and for not more than 30 days at any one time. Book closure/record date is necessary for the purpose of paying dividend, rights issue, bonus issue, etc. For the companies whose securities are listed on the Stock Exchange are required to comply with the SEBI Listing Regulations, 2015. As per the SEBI Listing Regulations, 2015, the companies are required to give 7 working days advance notice of book closure or record date to stock exchange where the securities of the companies are listed.

## **December 2020**

**1) The following is an extract of Balance Sheet of Alpha Ltd.: Equity Shares Capital — 50,000 Equity Share of ₹10 each. 10% Debenture Capital — 20,000 Debenture of ₹10 each.**

**On 21st April, 2018, the Board of directors decided to buy-back 5,000 equity shares for which they would call Extra-ordinary General Meeting. In the year 2016, the company has defaulted in payment of interest on secured loan to Bank amounted to ₹25 crore, which was remedied in the year 2017. Comment on the above situation.**

**Solution:** As per SEBI (Buy-Back of Securities) Regulations, 2018, the Company shall not directly or indirectly purchase its own shares or other specified securities if a default is made by the company in the repayment of deposits accepted either before or after the commencement of the Companies Act, interest payment thereon, redemption of debentures or preference shares or payment of dividend to any shareholder, or repayment of any term loan or interest payable thereon to any financial institution or banking company.

However, the buy-back is not prohibited if the default is remedied and a period of three years has lapsed after such default ceased to subsist.

In the given case, Alpha Ltd, defaulted the payment of interest on secured loan to Bank in the year 2016. Although the company has made good the default in year 2017 but the statutory period of three years has not lapsed. Hence, the company cannot proceed to buy-back the shares.

**2) “Increase in voting rights in a target company by any shareholder pursuant to buyback is exempted from the obligation to make an open offer subject to certain conditions”. In the light of the statement, you are required to enumerate these conditions. (4 marks)**

**Solution:** As per Regulation 10 of SEBI (SAST) Regulations, 2011, certain acquisitions are exempt from the obligation to make an open offer. Increase in voting rights in a target company by any shareholder pursuant to buy-back is exempted from the obligation to make an open offer subject to the following conditions:

- Such shareholder has not voted in favour of the resolution authorising the buy-back of securities under section 68 of the Companies Act 2013;
- In the case of shareholder resolution, voting is by way of postal ballot;
- Where a resolution of shareholders is not required for the buy-back, such shareholder in his capacity as a director, or any other interested director has not voted in favour of the resolution of the board of directors of the target company authorising the buyback of securities under section 68 of the Companies Act 2013; and
- the increase in voting rights does not result in an acquisition of control by such shareholder over the target company. However, where the aforesaid conditions are not met, in the event such shareholder reduces his shareholding such that his voting rights fall below the level at which the obligation to make an open offer would be attracted within 90 days from the date of closure of the buy-back offer by the target company, the shareholder shall be exempt from the obligation to make an Open offer.

### **June 2021**

**1) SAARC Ltd., a company listed on nationwide two stock exchanges. It decided to delist its securities from both the stock exchanges. By complying all delisting regulations, the promoters have made an open offer to buy shares from public shareholders. Referring to the SEBI Delisting Regulations, advise the company with respect to the following matters :**

- (a) How the payment of consideration will be made to the successful shareholders who have tendered their shares in an open offer ?**
- (b) What are the rights of remaining shareholder who have not tendered their shares during open offer ? (4 marks)**

**Solution:** Payment of consideration [Regulation 20]

The promoter of SAARC Ltd. shall immediately upon success of the offer, open a special account with a SEBI registered banker to an issue and transfer thereto, the entire amount due and payable as consideration in respect of equity shares tendered in the offer, from the escrow account. All the shareholders whose equity shares are verified to be genuine shall be paid the final price stated in the public announcement within ten working days from the closure of the offer.

a) Right of remaining shareholders to tender equity shares [Regulation 21]

Remaining public shareholder holding such equity shares may tender their shares to the promoter up to a period of minimum one year from the date of delisting and, in such a case, the promoter shall accept the shares tendered at the same final price at which the earlier acceptance of shares was made. The payment of consideration for shares accepted shall be made out of the balance amount lying in the escrow account.

The amount in the escrow account or the bank guarantee shall not be released to the promoter unless all payments are made in respect of shares tendered.

2) PQR Limited, a listed company, is intending to make buy-back of its equity shares. Referring to SEBI Buy-back Regulations, explain the following :

- (i) The manner of deposit of amount in Escrow account.
- (ii) How can an unregistered shareholder tender his shares for buy-back ?
- (iii) What is time limit for completing buy-back process ? (4 marks)

**Solution:** The company shall as and by way of security for performance of its obligations under the SEBI (Buy back of Securities) Regulations, on or before the opening of the offer, deposit in an escrow account such sum as specified under the Regulations.

The amount in the escrow shall be deposited in the following manner:

Amount of Consideration	% of amount to be deposited
Consideration not more than ₹100 crores	25 per cent of the consideration payable;
Consideration exceeds ₹100 crores	25 per cent up to ₹100 crores and 10 per cent thereafter.

- (i) The unregistered shareholder may also tender his shares for buy-back by submitting the duly executed Transfer Deed for transfer of shares in his name,
- (ii) along with the offer form and other relevant documents as required for transfer, if any.
- (iii) Every buy back shall be completed within a period of one year from the date of passing of the special resolution passed at the general meeting, or the resolution passed by the Board of directors of the company, as the case may be

### December 2021

1) Answer the followings with reasons, with reference to SEBI Buyback Regulations, whether these buy-back are as per the provisions of the regulations ?

- (i) The company can directly or indirectly purchase its own shares through any subsidiary including its own subsidiaries.
  - (ii) The company has made buy-back of shares out of the proceeds of an earlier issue of the same kind of shares.
  - (iii) The Company Secretary of the company advised not to allow buy-back of shares unless the consequent reduction of share capital is affected.
  - (iv) The company has prohibited from Buy-back whose default is remedied and a period of two years has lapsed after such default ceased to subsist.
  - (v) The Board of directors has denied the offer of buy-back of shares for 16 percent of the paid up capital and free reserves to be made from the open market.
- (1 mark each = 5 marks)

**Solution: (i)** As per the conditions and requirements for buyback of shares provided under the SEBI Buyback Regulations, the company shall not directly or indirectly purchase its own shares through any subsidiary including its own subsidiaries.  
Therefore, this statement is not as per the provisions of the SEBI Buyback Regulations.

**Solution: (ii)** As per the conditions and requirements for buyback of shares provided under the SEBI Buyback Regulations, the Buyback shall not be made out of the proceeds of an earlier issue of the same kind of shares or same kind of other specified securities of the company.  
Therefore, this statement is not as per the provisions of the SEBI Buyback Regulations.

**Solution: (iii)** As per the conditions and requirements for buyback of shares provided under the SEBI Buyback Regulations, a company shall not allow buyback of its shares unless the consequent reduction of its share capital is affected.  
Therefore, this statement is as per the provisions of the SEBI Buyback Regulations.

**Solution: (iv)** As per the conditions and requirements for buyback of shares provided under the SEBI Buyback Regulations, the buy-back is not prohibited, if the default is remedied and a period of three years has lapsed after such default ceased to subsist.

Therefore the company is prohibited from Buyback whose default is remedied and a period of two years has lapsed after such default ceased to subsist, therefore, this statement is as per the provisions of the SEBI Buyback Regulations.

**Solution: (v)** As per the conditions and requirements for buyback of shares provided under the SEBI Buyback Regulations, the buyback from open market shall be less than 15 percent of the paid up capital and free reserves of the company, based on both standalone and consolidated financial statements of the company.

Since the Board of Directors has denied the offer of buyback of shares for 16 percent of the paid up capital and free reserves to be made from the open market, therefore, this statement is as per the provisions of the SEBI Buyback Regulations.

## CHAPTER 8 – SEBI (DELISTING OF EQUITY SHARES) REGULATIONS, 2009

**June 2023**

**1. The equity shares of ABC Limited have been delisted from the stock exchange. When can an application be made for listing of equity shares of ABC Limited ?**

**Ans -** As per the provisions of the SEBI (Delisting of Equity Shares) Regulations, 2021, 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 IV (Exit Opportunity), 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).

In case equity shares of the ABC Limited have been voluntarily delisted from the stock exchange from one or more of the recognised stock exchanges or from all the recognised stock exchanges, the application for listing shall not be made for a period of 3 years. In case of compulsory delisting, the application for listing shall not be made for a period of 10 years.

**DECEMBER 2019**

**2A (iv) The Managing Director of AB Ltd., a listed company wishes to implement the procedure for voluntary delisting from a few stock exchanges subject to listing of at least one stock exchange having nation wide terminals. As a Company Secretary prepare a note on your Managing Director in the light of SEBI (Delisting of Equity Shares) Regulations, 2009. (4 marks)**

**Answer 2A (iv)** Procedure for voluntary delisting from few stock exchanges subject to listing at atleast one stock exchange having nation-wide terminals.

As per Regulations 6 of SEBI (Delisting of Equity Shares) Regulations 2018, A company may delist its equity shares from one or more recognised stock exchanges where they are listed and continue their listing on one or more other recognised stock exchanges, subject to the provisions of these regulations and subject to the following –

(a) If after the proposed delisting from anyone or more recognised stock exchanges, the equity shares would remain listed on any recognised stock exchange which has nationwide trading terminals, no exit opportunity needs to be given to the public shareholders.

As per Regulations 7 of SEBI (Delisting of Equity Shares) Regulations 2018, the procedure for delisting in the present situation is as follows:

– Convene a Board Meeting [Regulation 7(1)(a)] : The proposed delisting shall be approved by a resolution of the board of directors of the company in its meeting.

– Public notice [Regulation 7(1)(b)] The company to give a public notice of the proposed delisting in at least one English national daily with wide circulation, one Hindi national daily with wide circulation and one regional language newspaper of the region where the concerned recognized stock exchanges are located.

- Details shall mention in Public notice [Regulation 7(2)] (a) The names of the recognized stock exchanges from where the equity shares of the company are intended to be delisted. (b) The reasons for such delisting. (c) The fact of continuation of listing of equity shares on recognized stock exchange having nation wide trading terminals.
- Application to the concerned recognized stock exchange. [Regulation 7 (1)(c)] The company shall make an application to the concerned recognized stock exchange for delisting its equity shares.
- Delisting order by the Exchange [Regulation 7(3)] The recognized stock exchange shall dispose of the Application of the delisting complete in all respects within a period not exceeding thirty working days from the date of receipt of such application.
- Disclosure in the Annual report [Regulation 7(1)(d)] In the first Annual report which will be prepared after the delisting, include the names of the recognised stock exchanges from where the company got voluntary delisted during that year and the reason of the delisting there from. JUNE 2019

**2A (iii) The Board of directors of a listed company desires to delist its equity shares from all the recognised stock exchanges. The voting details through postal ballot are as under :**

— **Total nos. of voters : 7,000 (Public : 5,000 & Promoters : 2,000)**

— **Voting at shareholders meeting :**

**(a) Public shareholders :**

**In favour : 3,300 votes**

**In against : 1,700 votes**

**(b) All promoters shareholders have voted in favour of resolution.**

**By referring SEBI delisting regulation, decide upon the resolution passed by the shareholders. (4 marks)**

**Answer 2A (iii)** Regulation 6 of the SEBI (Delisting of Equity Shares) Regulations, 2009, prescribed that if a company proposes to delist its equity shares from all the recognized stock exchanges where they are listed, it is required to obtain the prior approval of shareholders of the company by special resolution passed through postal ballot, after disclosure of all material facts in the explanatory statement sent to the shareholders in relation to such resolution. However, the special resolution shall be acted upon if and only if the votes cast by public shareholders in favour of the proposal amount to at least two times the number of votes cast by public shareholders against it.

In the mentioned case, the resolution was passed as special resolution as it has approval of 75% of the shareholders, however, the resolution does not have requisite approval of public shareholders. The votes cast in favour of resolution (3300 votes) is not the twice of the votes cast against the resolution (1700 votes) by the public shareholders. Therefore, the special resolution cannot be acted upon by the company

## **DECEMBER 2018**

**2A (ii) The equity share of Ashina Buildcon Ltd., was listed on National Stock Exchange Ltd. (NSE). NSE delisted its shares by complying SEBI guidelines on delisting. The order of delisting was passed on March 05, 2017. Kunj, one of the shareholder has not participated in the bidding process due to ill health, He wanted to tender shares on January 01, 2018. Analyze the problem in the light of the SEBI (Delisting of Equity Shares) Regulations, 2009. (4 marks)**

**Answer 2A (ii)** According to the provisions of regulation 21 of the SEBI (Delisting of Equity Shares) Regulations, 2009, where pursuant to acceptance of equity shares tendered in term of SEBI delisting regulations, equity shares are delisted, any remaining public shareholder holding such equity shares may tender his shares to the promoter up to a period of minimum one year from the date of delisting and, in such a case:

(a) The promoter shall accept the shares tendered at the same final price at which the earlier acceptance of shares was made.

(b) The payment of consideration for share accepted as above shall be made out of the balance amount lying in the escrow account.

(c) The amount in the escrow account or the bank guarantee shall not be released to the promoter unless all payments are made in respect of share tendered as above.

In the instant case of the shares of Ashina Buildcon Ltd. which was delisted by NSE on March 05, 2017 where Kunj is one of the shareholders, wanted to tender equity shares on January 01, 2018. So as per the above mentioned provisions, remaining shareholders can tender their share up to a period of minimum one year from the date of delisting. Therefore, Kunj can tender his share on January 01, 2018.

## **December 2020**

**1) Young Ltd. is a company incorporated under the provisions of the Companies Act, 2013. The Company is listed on National Stock Exchange since 1st January, 2017. The promoters of the Company are now exploring the possibility to voluntarily delist the Company on or before 1st October, 2019 under the SEBI (Delisting of Equity Shares) Regulations, 2009 by providing an exit opportunity to all the public shareholders. Assume that you are a legal advisor of the Company and accordingly, answer the following questions :**

**(i) Is the Company eligible for voluntary delisting in terms of the Delisting Regulations ?**

**(ii) What are the circumstances/conditions under which equity shares of a company cannot be delisted as per the Delisting Regulations ? (4 marks)**

### **Solution:**

(i) As per SEBI (Delisting of Equity Shares) Regulations, 2009, no company shall apply for and no recognised stock exchange shall permit delisting of equity shares of a company unless a period of three years has elapsed since the listing of that class of equity shares on any recognised stock exchange.

In the given case, Young Limited was listed on 1st January 2017 and the period of three years has not elapsed hence, the company is not eligible for voluntary delisting.

(ii) As per SEBI (Delisting of Equity Shares Regulations), 2009, no company shall apply for and no recognised stock exchange shall permit delisting of equity shares of a company, -

a. pursuant to a buyback of equity shares by the company; or

b. Pursuant to a preferential allotment made by the company; or

- c. unless a period of three years has elapsed since the listing of that class of equity shares on any recognised stock exchange; or
- d. if any instruments issued by the company, which are convertible into the same class of equity shares that are sought to be delisted, are outstanding.

**2) Mr. X, Mr. Y and Mr. Z are the promoters of KP Ltd. They submitted the documents for delisting of shares from BSE. The company received the delisting order on 31st July, 2019. The management hired a practising company secretary for the successful completion of the delisting process. You are required to prepare a board note as to what information should be given in public announcement. (7 marks)**

**Solution:**

To  
The Board of Directors KP Ltd.

Sub : Delisting of shares

The Board is hereby informed that as the company received the delisting order, the acquirer or promoters of the company within one working day from the date of receipt of in- principle approval for delisting from the recognized stock exchange are required to make a public announcement in at least one English national daily with wide circulation, one Hindi national daily with wide circulation and one regional language newspaper of the region where the concerned recognized stock exchange is located.

The public announcement should contain the following information:

- (i) The floor price and the offer price and how they were arrived at.
  - (ii) The dates of opening and closing of the offer.
  - (iii) The name of the exchange from which the equity shares are sought to be delisted.
  - (iv) The manner in which the offer can be accepted by the shareholders.
  - (v) Disclosure regarding the minimum acceptance condition for success of the offer.
  - (vi) The names of the merchant banker and other intermediaries together with the helpline number for the shareholders.
  - (vii) The specified date fixed as per sub-regulation (3) of regulation 10.
  - (viii) The object of the proposed delisting.
  - (ix) The proposed time table from opening of the offer till the payment of consideration or return of equity shares.
  - (x) Details of the escrow account and the amount deposited therein.
- 11 Listing details and stock market data
- (a) high, low and average market prices of the equity shares of the company during the preceding three years;
  - (b) monthly high and low prices for the six months preceding the date of the public announcement; and,
  - (c) the volume of equity shares traded in each month during the six months preceding the date of public announcement.
12. Present capital structure and shareholding pattern.
13. The likely post-delisting shareholding pattern.
14. The aggregate shareholding of the promoter together with persons acting in concert and of the directors of the promoter where the promoter is a company and of persons who are in control of the company.
15. A statement, certified to be true by the board of directors of the company, disclosing material deviation, if any, in utilisation of proceeds of issues of securities made during the five years immediately preceding the date of public announcement, from the stated object of the issue.

16. A statement by the board of directors of the company confirming that all material information which is required to be disclosed under the provisions of continuous listing requirement have been disclosed to the stock exchanges.

17. A statement by the board of directors of the company certifying that:-

- a) the company is in compliance with the applicable provisions of securities laws;
- b) the acquirer or promoter or promoter group or their related entities have not carried out any transaction during the aforesaid period to facilitate the success of the delisting offer;
- c) the delisting is in the interest of the shareholders.

18. Name of compliance officer of the company.

19. It should be signed and dated by the promoter. Where the promoter is a company, the public announcement shall be dated and signed on behalf of the board of directors of the company by its manager or secretary, if any, and by not less than two directors of the company, one of whom shall be a managing director where there is one.

## CHAPTER 9 – AN OVERVIEW OF SEBI (SHARE BASED EMPLOYEE BENEFITS) REGULATIONS, 2014

**June 2023**

1. Prikshit is appointed as an independent director on the Board of PQR Ltd. The Company has issued ESOPs to Prikshit deeming him to be its employee. Answer the following:

- (a) Whether Prikshit is entitled to receive the ESOPs (give reason) ?
- (b) What would be your answer, if Prikshit is a non-executive director belongs to the promoters group and holds 12% outstanding equity shares of the company?

**Ans –**

(a) In terms of the provisions of regulation 17(6)(d) of the SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015, independent directors are not entitled to any stock option. In the given case, Prikshit who is an independent director, is not entitled to receive the ESOPs.

(b) As per the definition of employees as provided under the SEBI (Share Based Employee Benefits and Sweat Equity) Regulations, 2021, a non-executive director is eligible for ESOP but he should not be belonging to the promoters group. Further, any director who holds more than ten percent of the outstanding equity shares of the company is also not eligible for ESOP.

Hence, Prikshit is not an eligible employee under the regulations and therefore not eligible for ESOP.

**June 2022**

(a) **Due to growing numbers of startups in India, one of the leading listed startup has apprehension that the experienced employees may leave the company to get higher pay package. The CEO desires to issue Sweat Equity Shares to the employees to retain them. You being a Company Secretary advise the management about pricing of the shares under SEBI (Share Based Employee Benefits and Sweat Equity) Regulations, 2021.**

**Ans-**

The SEBI (Share Based Employee Benefits and Sweat Equity) Regulations, 2021 states that the price of sweat equity shares shall be determined in accordance with the pricing requirements stipulated for a preferential issue to a person other than a qualified institutional buyer under the SEBI (Issue of Capital and Disclosure Requirements) Regulations, 2018.

Section 164 of SEBI (Issue of Capital and Disclosure Requirements) Regulations, 2018 deals with the pricing requirements stipulated for a preferential issue which is given as under:

**In case of frequently traded shares:**

Regulation 164(1) states that-

- (1) if the equity shares of the issuer have been listed on a recognised stock exchange for a period of twenty six weeks or more as on the relevant date, the price of the equity shares to be allotted pursuant to the preferential issue shall be not less than higher of the following:

a. the average of the weekly high and low of the volume weighted average price of the related equity shares quoted on the recognised stock exchange during the twenty six weeks preceding the relevant date; or

b. the average of the weekly high and low of the volume weighted average prices of the related equity shares quoted on a recognised stock exchange during the two weeks preceding the relevant date.

(2) If the equity shares of the issuer have been listed on a recognised stock exchange for a period of less than twenty six weeks as on the relevant date, the price of the equity shares to be allotted pursuant to the preferential issue shall be not less than the higher of the following:

(a) the price at which equity shares were issued by the issuer in its initial public offer or the value per share arrived at in a scheme of compromise, arrangement and amalgamation under sections 391 to 394 of the Companies Act, 1956 or sections 230 to 234 of the Companies Act, 2013, as applicable, pursuant to which the equity shares of the issuer were listed, as the case may be; or

(b) the average of the weekly high and low of the volume weighted average prices of the related equity shares quoted on the recognised stock exchange during the period the equity shares have been listed preceding the relevant date; or

(c) the average of the weekly high and low of the volume weighted average prices of the related equity shares quoted on a recognised stock exchange during the two weeks preceding the relevant date.

**In case of infrequently traded shares:**

The price determined by the issuer shall take into account the valuation parameters including book value, comparable trading multiples, and such other parameters as are customary for valuation of shares of such companies. However, the issuer shall submit a certificate stating that the issuer is in compliance of this regulation, obtained from an independent valuer to the stock exchange where the equity shares of the issuer are listed.

**MineGame Ltd., a gaming platform of a listed company comprises various subsidiaries, joint venture companies, associates and other related party entities forming an internal part of MineGame Group. In order to retain talented human resources and to recognise the efforts of employees of these entities in the group, MineGame Group decided to grant cash based SARs linked to the share of MineGame Group to the employees of joint venture. You are required to confirm as to whether the scheme falls under the SEBI (Share Based Employee Benefits and Sweat Equity) Regulations, 2021.**

**Ans-**

According to the SEBI (Share Based Employee Benefits and Sweat Equity) Regulations, 2021, the provisions of these regulations shall apply to any company whose equity shares are listed on a recognised stock exchange in India and who seeks to issue sweat equity shares or has a scheme:-

- (i) for direct or indirect benefit of employees;
- (ii) involving dealing in or subscribing to or purchasing securities of the company, directly or indirectly; and
- (iii) satisfying, directly or indirectly, any one of the following conditions: -
  - a. the scheme is set up by the company or any other company in its group.
  - b. the scheme is funded or guaranteed by the company or any other company in its group.
  - c. the scheme is controlled or managed by the company or any other company in its group.

Further the Regulation 2(1)(i) of the said Regulations defines “Employees” as follows:

“Employee”, except in relation to issue of sweat equity shares, means, —

- (i) an employee as designated by the company, who is exclusively working in India or outside India; or
- (ii) a director of the company, whether a whole time director or not, including a nonexecutive director who is not a promoter or member of the promoter group, but excluding an independent director; or
- (iii) an employee as defined in sub-clauses (i) or (ii), of a group company including subsidiary or its associate company, in India or outside India, or of a holding company of the company, but does not include -
  - (a) an employee who is a promoter or a person belonging to the promoter group; or
  - (b) a director who, either himself or through his relative or through any body corporate, directly or indirectly, holds more than ten per cent of the outstanding equity shares of the company;

The Regulation 2(1)(c) of the said Regulations defines "Associate Company" as follow:

"Associate Company" shall have the same meaning as defined under Section 2(6) of the Companies Act, 2013.

Further, as per Section 2(6) of the Companies Act, 2013, the term Associate Companies includes Joint Ventures. It is therefore noted that the provisions of the Regulations shall apply to those companies whose shares are listed on any recognised stock exchanges in India and has a scheme, which is set up, funded, or guaranteed and controlled or managed by the company or any other company in its group for direct or indirect benefit of the employees.

However in the given case of MineGame Group, the proposed scheme is being setup by MineGame Group and though the said scheme is for the benefit of the employees of joint venture but linked to the share of MineGame Group and not to listed company MineGame Ltd. Thus the said scheme does not come under the ambit of the SEBI (Share Based Employee Benefits and Sweat Equity) Regulations, 2021.

## **DECEMBER 2019**

**1 (d) Yale is a nominee director on the Board of a listed company. On the proposal of ESOP in the Board meeting, he objected about his exclusion from this scheme. State the prior conditions to be fulfilled for a nominee directors under the SEBI regulations for ESOP eligibility. (5 marks)**

**Answer 1 (d)** ESOP (Employees Stock Option Plan)

As per regulation 4 of SEBI (Share Based Employee Benefits) Regulations, 2014, an employee shall be eligible to participate in the schemes of the company and where such employee is a director nominated by an institution as its representative on the board of directors of the company;-

(i) The contract or agreement entered into between the institution nominating its employee as the director of a company, and the director so appointed shall, inter alia, specify the following:-

(a) whether the grants by the company under its scheme(s) can be accepted by the said employee in his capacity as director of the company:

(b) that grant if made to the director, shall not be renounced in favour of the nominating institution; and

(c) the conditions subject to which fees, commission, other incentives, etc. can be accepted by the director from the company.

(ii) the institution nominating its employee as a director of a company shall file a copy of the contract or agreement with the said company, which shall in turn file the copy with all the stock exchanges on which its shares are listed.

(iii) the director so appointed shall furnish a copy of the contract or agreement at the first board meeting of the company attended by him after his nomination.

In the current problem, if the above conditions have been satisfied, Yale is eligible for ESOP and company cannot exclude him on the proposal of ESOP.

**3 (c) A company has implemented Employee Stock Option Scheme to retain the best talent in the company. After one year of implementation of the scheme, the company desires to increase the vesting period from 2 year to 3 year. Is it possible for the company to vary the terms and condition of the option after implementation of the scheme under SEBI regulation. (5 marks)**

**Answer 3 (c)** According to the Regulation 7 of the SEBI (Share Based Employee Benefits) Regulation, 2014 the company shall not vary the terms of the schemes in any manner which may be detrimental to the interests of the employees, provided that the company shall be entitled to vary the term of the schemes to meet any regulatory requirements.

Subject to the above, the company may by special resolution in a general meeting vary the terms of the schemes offered pursuant to an earlier resolution of the general body but not yet exercised by the employee provided such variation is not prejudicial to the interests of the employees.

The company desires to increase the vesting period from 2 years to 3 years. This will get shares after 3 years instead of earlier 2 years and it is prejudicial to the interests of the employees.

Hence, the company cannot change the vesting period as per SEBI regulations.

### **JUNE 2019**

**1 (c) Your Board of directors is contemplating to take-up the agenda to issue ESOS in next meeting. Being a Company Secretary, advise your Board of directors about brief procedure for issuing of securities under SEBI Employees Stock Option Scheme (ESOS) by a listed Company. (5 Marks)**

**Answer 1 (c)**

To  
The Board of Directors

Sub: Procedure for issuing securities under SEBI (Share Based Employee Benefits) Regulations, 2014

As it has been decided by the Board of Directors (BoD), to issue employee stock option, to take up as an agenda in the next meeting of the BoD, the following is the procedure for issuing ESOP by a Listed Company:

- Hold a Board Meeting to consider and approve ESOP and formation of Compensation Committee;
- Compensation committee shall plan draft the scheme of ESOP;
- Hold Board meeting to adopt the final scheme, appoint a registered Merchant banker and approve the notice of the General meeting for shareholders' approval by passing special resolution;
- Hold General Meeting for approval of shareholders;
- Make an application to the stock exchange for obtaining in-principal approval for listing of proposed ESOP shares;
- Issue letter of grant of option to the eligible employees along with the letter of acceptance of option;

- If the grant is made to NRI employees, comply with norms of RBI as per FDI Policy.
- On receipt of letter of acceptance of option along with upfront payment (if any), from the employee issue the option certificates;
- There shall be a minimum vesting period of one year and after expiry of vesting period, the company shall issue a letter of vesting along with the letter of exercise of options;
- Receipt to letter of exercise from the employee;
- Hold a Board Meeting at the suitable Interval during the exercise period for allotment of shares on options exercised by the Employees;
- Dispatch of letter of allotment along with the share certificates or credit the shares so allotted with the Depositories;
- Make an application to the Stock exchange for listing of the Shares so allotted; and
- Receipt of listing approval from the Stock Exchange(s).

Mr X  
Company Secretary

Note : Notice of Meetings (both Board & Shareholder) has to be given.  
For Board Meetings : atleast 7 days notice.  
For Shareholder meeting : atleast 21 days notice.

## **DECEMBER 2018**

### **1 (c) Explain the Stock Appreciation Rights Scheme (SARS). (5 Marks)**

**Answer 1 (c)** According to SEBI (Share Based Employee Benefits) ("SBEB") Regulations, 2014, "Stock Appreciation Right Scheme" means a scheme under which a company grants Share Appreciation Right (SAR) to employees.

SAR Scheme under SEBI (SBEB) Regulations, 2014

#### (i) Administration and Implementation

The SAR scheme shall contain the details of the manner in which the scheme will be implemented and operated. The company shall have the freedom to implement cash settled or equity settled SAR scheme. However, in case of equity settled SAR scheme, if the settlement results in fractional shares, then the consideration for fractional shares should be settled in cash. SAR shall not be offered unless the disclosures, as specified by SEBI in this regard, are made by the company to the prospective SAR grantees.

#### (ii) Vesting

There shall be a minimum vesting period of one year in case of SAR scheme. However, in a case where SAR is granted by a company under a SAR scheme in lieu of SAR held by the same person under a SAR scheme in another company which has merged or amalgamated with the first mentioned company, the period during which the SAR granted by the transferor company were held by the employee shall be adjusted against the minimum vesting period.

#### (iii) Rights of the SAR Holder

The employee shall not have right to receive dividend or to vote or in any manner enjoy the benefits of a shareholder in respect of SAR granted to him.

**1 (d) Answer the following with reference to the Companies (Share Capital and Debentures) Rules, 2014, as to whether these are the eligible employees under Employee Stock Option ? (Yes/No with reasons)**

- (i) Ankit is a permanent employee deputed in USA for a specific project.
- (ii) Smart Ltd. is an independent company.
- (iii) Anil is a promoter and employee.
- (iv) Aneesh is a director holding 11% of outstanding equity shares of the company.
- (v) If it is a startup company, will the situation be the same in (iii) & (iv) above? (5 Marks)

**Answer 1 (d)** Rule 12 of Companies (Share Capital and Debentures) Rules 2014, define the eligible employees for the purpose of employee stock option. The answers given below are based on the eligibility criteria set out in the rule:

- (i) Yes. As per Rule 12 (1) (a), a permanent employee of the company who has been working in India or outside India. Hence, ankit is an eligible employee for ESOP.
- (ii) No. Since Smart Ltd. is a company, the Companies Act, 2013 and rules made there under does not recognise a company as an employee.
- (iii) No. As per Rule 12 (1) (i), an employee who is a promoter or a person belonging to the promoter group is not an employee. Hence, Anil is not an eligible employee for ESOP.
- (iv) No. As per Rule 12 (1) (ii), a director who either himself or through his relative or through anybody corporate, directly or indirectly, holds more than ten percent of the outstanding equity shares of the company, is not eligible employee. Hence, Aneesh is not an eligible employee for this purpose.
- (v) Yes, Anil and Aneesh are eligible employees for both the situation in (iii) & (IV) above. As per notification number GSR 180(E) dated 17th February, 2016 issued by the Department of Industrial Policy and Promotion, Ministry of Commerce and Industry Government of India, Government of India, the conditions mentioned in (iii) & (iv) above, shall not apply for a startup company upto five years from the date of its incorporation or registration.

### **December 2020**

**3) Tango Trading Ltd. is a public company which has its equity shares listed on NSE. The Company wants to implement Employee Stock Option Plan (ESOP) for its employees. ESOP Plan will be operated through a trust in accordance with the SEBI (Share Based Employee Benefits) Regulations, 2014. The company is willing to issue shares under ESOP scheme to one of its whole time director, Irfan. Irfan holds 12% of the outstanding equity shares of the company. In view of the above facts, answer the following questions :**

- (i) Can the company issue shares to its director, Irfan under ESOP scheme ?
- (ii) Prepare a brief note on the process of implementation of ESOP scheme through Trust route. (4 marks)

**Solution:** A company can issue shares through employee stock option scheme (ESOP) to its

- a. permanent employees (India or outside India)
- b. a director whether whole time director or not (excluding independent director)
- c. an employee as defined in clauses (a) or (b) of a subsidiary, in India or Outside India or of a holding company but excluding following:
  - i. An Employee who is a promoter or a person belongs to the promoter group
- (ii) A company can issue shares through employee stock option scheme (ESOP) to its
  - a. permanent employees (India or outside India)
  - b. a director whether whole time director or not (excluding independent director)
  - c. an employee as defined in clauses (a) or (b) of a subsidiary, in India or Outside India or of a holding company but excluding following:
    - i. An Employee who is a promoter or a person belongs to the promoter group

ii. A director who either himself or through his relative or through anybody corporate, directly or indirectly holds more than 10% of the outstanding equity shares of the company. In the given case, Irfan holds more than 10% of stake in Tango Trading Ltd. Hence, he is not eligible to participate in the ESOP scheme.

(iii) The process of implementation of ESOPs scheme through Trust Route is as under:

- The company creates an Employee Welfare Trust specifically for the purpose of running the ESOP schemes.
- Company grants loan to the trust for subscribing its shares
- Company issues fresh shares to the trust and option to employees.
- Where the employees decide to exercise the option to acquire the shares, trust transfers the shares in the name of the employees
- Trust repays the loan to the company from the proceeds on sale of shares to employee.

### **June 2021**

**1) Differentiate between “Direct Route for ESOP” and “Trust Route for ESOP”. (4 marks)**

**Solution:** Direct Route for ESOPs

1. Company forms a compensation committee and define the eligibility criteria of ESOPs.
2. Company issue fresh shares for ESOPs.
3. After vesting period employees can exercise the option.
4. On exercise of an option company issues the shares to the eligible employees.

Trust Route for ESOPs

1. Company forms an Employee Welfare Trust.
2. Company grants loan to the trust for subscribing shares.
3. Company issues fresh shares to the Trust and option to the Eligible Employees.
4. Employees exercise the options.
5. Trust transfers the Shares to the employee upon receipt of exercise price.
6. Trust repays the loan to the company.

### **December 2021**

**1) Explain the provisions of pricing, vesting period and consequence of failure to exercise Employee Stock Option Scheme (ESOS). (4 marks )**

**Solution:** Pricing of Employee Stock Option Scheme (ESOS)

The company granting option to its employees pursuant to ESOS will have the freedom to determine the exercise price subject to conforming to the accounting policies as specified in the SEBI (Share Based Employee Benefits) Regulations, 2014.

Vesting Period of ESOS

There shall be a minimum vesting period of one year in case of ESOS. However, in case where options are granted by a company under an ESOS in lieu of options held by a person under an ESOS in another company which has merged or amalgamated with that company, the period during which the options granted by the transferor company were held by him shall be adjusted against the minimum vesting period.

Consequence of failure to exercise option

The amount payable by the employee, if any, at the time of grant of option, -

- a) may be forfeited by the company if the option is not exercised by the employee within the exercise period; or
- b) may be refunded to the employee if the options are not vested due to non- fulfilment of conditions relating to vesting of option as per the ESOS.

**2) “SEBI Share Based Employee Benefits Regulations shall apply to any company, whether listed or not on any recognised stock exchanges in India and has a scheme”. Comment on the statement. Discuss the scheme or purpose of the regulation.**

**Solution:** The provisions of SEBI (Share Based Employee Benefits) Regulations, 2014 shall apply only to a company whose shares are listed on a recognised stock exchange in India and has a scheme. Hence the statement given in the question is not correct.

Further the provision of these regulations shall only apply, if the company is having a scheme:

- i. for direct or indirect benefit of employees,
- ii. involving dealing in or subscribing to or purchasing securities of the company, directly or indirectly and
- iii. satisfying, directly or indirectly, any one of the following conditions:
  - (a) the scheme is set up by the company or any other company in its group;
  - (b) the scheme is funded or guaranteed by the company or any other company in its group;
  - (c) the scheme is controlled or managed by the company or any other company in its group.

**CHAPTER 10 – AN OVERVIEW OF SEBI (ISSUE OF SWEAT EQUITY) REGULATIONS,  
2002**

**JUNE 2019**

**2A (v) Z Ltd. has issued Sweat Equity Shares for a non-cash consideration. What are the possible accounting treatments in the books of Z Ltd. ? (4 marks)**

**Answer 2A (v)** As per regulation 9 of the SEBI (Issue of Sweat Equity) Regulations, 2002, 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 treated as expense as provided in the relevant accounting standards.

**3 (a) A listed NBFC has been granted licence to run as small finance bank by the Reserve Bank of India under recently announced policy to improve the financial inclusion of the country. During the last three years, the attrition rate for top level management employees was not too high As, RBI has granted licences to many small banks, therefore, the promoters of the Bank feels that attrition rate will be high in coming . period. The Board of directors wishes to allot Sweat Equity shares to employees. You, being compliance officer of the Bank, advise the Board about pricing of the Sweat Equity shares (5 Marks)**

**Answer 3(a)**

To  
The Board of Directors

Sub: Pricing of the Sweat Equity Shares

As the Board of the Directors has decided to allot sweat equity shares to employees, the following are the provisions relating to pricing of sweat equity shares:

1. According to the regulation 7 of the SEBI (Issue of Sweat Equity) Regulations, 2002, the price of sweat equity shares shall not be less than the higher of the following:
  - (a) the average of the weekly high and low of the closing prices of the related equity shares during last six months preceding the relevant date; or
  - (b) the average of the weekly high and low of the closing prices of the related equity shares during the two weeks preceding the relevant date.
2. If the shares are listed on more than one stock exchange, but quoted only on one stock exchange on given date, then the price on the stock exchange shall be considered.
3. If the share price is quoted on more than one stock exchange, then the stock exchange where there is highest trading volume during that date shall be considered.
4. If the shares are not quoted on the given date, then the share price on the next trading day shall be considered.

## June 2021

1) Portable Marketing Ltd., a listed company on stock exchange, having paid up capital ₹500 crore consisting of 50 crore equity share of ₹10 each. The Board of directors of company has recommended issuing of sweat equity shares to its promoters/directors and employees as a part of their recognition for valuable contribution to the growth of company. The board meeting was held on 1st March, 2020 and extra-ordinary general meeting was held on 27th March, 2020 for approving the issue of sweat equity shares. The details of closing market price available on stock exchange are given below :

The average of the weekly high and low of closing prices of equity shares of the company during six months	preceding 31st January, 2020	₹540
	preceding 26th February, 2020	₹550
The average of the weekly high and low of the closing prices of equity shares of the company during the two weeks	preceding the 31st January, 2020	₹580
	preceding the 26th February, 2020	₹575
The closing price of equity share of the company	on 27th March, 2020	₹578

Referring to the provisions of Companies Act, 2013 and SEBI Regulations, answer the following :

- (i) What are the conditions to be fulfilled for issue of sweat equity shares ?
- (ii) Can sweat equity shares be issued to promoters ? If yes, what are the conditions to be fulfilled ?
- (iii) What is the relevant date in above case ?
- (iv) What should be the minimum price at which sweat equity shares should be issued ? (8 marks)

**Solution:** According to Section 54 of the Companies Act, 2013 a company may issue sweat equity shares of a class of shares already issued, if the following conditions are fulfilled:

- a) The issue is authorized by a special resolution passed by the company in the general meeting.
  - b) The resolution specifies the number of shares, current market price, consideration if any and the class or classes of directors or employees to whom such equity shares are to be issued.
  - c) The sweat equity shares of a company whose equity shares are listed on a recognised stock exchange are issued in accordance with the regulations made by SEBI in this regard and if they are not listed, the sweat equity shares are to be issued in accordance with the rules as prescribed under Companies Act, 2013.
- (ii) Yes, sweat equity shares can be issued to promoter's subject to following conditions:
- a) Such issue shall be approved by simple majority of the shareholders in General Meeting.
  - b) Further, the promoters to whom such Sweat Equity Shares are proposed to be issued shall not participate in such resolution and separate resolution shall be passed for each transaction of issue of Sweat Equity.
  - c) Such resolution shall be valid for a period of not more than twelve months from the date of passing of the resolution. For the purposes of passing the resolution, the explanatory statement shall contain the disclosures as specified in the Schedule.
- (iii) "Relevant date" for this purpose means the date which is thirty days prior to the date on which the meeting of the General Body of the shareholders is convened, in terms of clause (a) of sub section (1) of section 54 of the Companies Act, 2013.
- (iv) The price of sweat equity shares shall not be less than the higher of the following:

- The average of the weekly high and low of the closing prices of the related equity shares during last six months preceding the relevant date.

OR

- The average of the weekly high and low of the closing prices of the related equity shares during the two weeks preceding the relevant date.

In the given question, the meeting of the general body of shareholders of Portable Marketing Limited was held on 27th March, 2020 and therefore, the relevant date is 26th February, 2020 (that is the date which is thirty days prior to the date on which the meeting of the General Body of the shareholders is convened). Thus, minimum price at which sweat equity shares are to be issued, will be higher of the following:

1. The average of the weekly high and low of closing price of equity shares of the company during six months preceding 26th February, 2020 = ₹550.

OR

2. The average of the weekly high and low of the closing prices of equity shares of the company during the two weeks preceding the 26th February, 2020 = ₹575. Thus, Minimum price for issue of sweat equity shares should be ₹575.

### **December 2021**

**1) The accounting treatment of an issue of sweat equity shares is different than the public offer of shares.” Elucidate briefly. Is there any requirement of Auditor’s certificate after issue of sweat equity shares ? When such shares are treated as part of managerial remuneration ? (7 marks)**

**Solution:** Accounting Treatment : 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.

#### Placing of Auditors Certificate before Annual General Meeting

In the General meeting subsequent to the issue of sweat equity, the Board of Directors shall place before the shareholders, a certificate from the auditors of the company that the issue of sweat equity shares has been made in accordance with the SEBI Regulations and in accordance with the resolution passed by the company authorizing the issue of such Sweat Equity Shares.

#### Ceiling of Managerial Remuneration

The amount of sweat equity shares issued shall be treated as part of managerial remuneration for the purpose of sections 197 of the Companies Act, 2013, if the following conditions are fulfilled:

- (i) the Sweat Equity shares are issued to any director or manager; and
- (ii) they are issued for non-cash consideration, which does not take the form of an asset which can be carried to the balance sheet of the company in accordance with the relevant accounting standards.

## CHAPTER 11 – SEBI (PROHIBITION OF INSIDER TRADING) REGULATIONS, 2015

**June 2023**

1. In light of SEBI Insider Trading Regulations, explain with reasons whether the following information is deemed as price sensitive:

(i) Managing Director of ABC Ltd. met with an accident and was hospitalized. (ii) EF Ltd. is under negotiation to enter into a foreign collaboration with a Korean company for technical knowhow.

(iii) RBI has increased its repo rate by 25 basis points.

(iv) XY Ltd. is proposing for issue of bonus shares for its shareholders.

The Chairman of RN Ltd. has submitted his resignation to the Board after reading a news article proposing to sell a particular brand to another company by the promoters of the company.

**Ans –**

(i) The Managing Director of ABC Ltd. met with an accident and was hospitalised is not an unpublished price sensitive information (UPSI), as it is an announcement of condition of the Managing Director and it would not impact the market price of the shares.

(ii) EF Ltd. is under negotiation to enter into a foreign collaboration with a Korean company for technical knowhow is an Unpublished price sensitive information, as it would materially affect the price of the shares of the company.

(iii) RBI has increased its repo rate by 25 basis point is not a UPSI as it is announced by RBI officially.

(iv) XY Ltd. is proposing for issue bonus shares for its shareholders is a UPSI as it would materially affect the price of the shares of the company.

(v) The Chairman of RN Ltd. has submitted his resignation to the Board after reading a news article proposing to sell a particular brand to another company by the promoters of the company is a UPSI. While the news article is public information, the fact of resignation of the Chairman is not and hence it is UPSI.

2. David, General Manager (finance) of Suren Enterprises Ltd., was found to be indulging in insider trading activities. As a result, the company terminated his services. The SEBI also took cognizance of the matter and initiated proceedings against him under Insider Trading Regulations. David pleaded that since his service had already been terminated, SEBI could not initiate any proceedings against him. Suggest, what type of action can be taken by SEBI against him ?

**Ans -** As per the SEBI (Prohibition of Insider Trading) Regulations, 2015, the definition "insider" means any person who is a connected person or in possession of or having access to unpublished price sensitive information.

Since David, General Manager (Finance) of the Suren Enterprises Ltd. was insider and found to be indulging in insider trading activities when in employment of the company. Therefore, SEBI has the right to initiate any proceedings against him.

Penalty for insider trading under section 15G of the SEBI Act, 1992

If any person violates provisions of the SEBI (Prohibition of Insider Trading) Regulations, 2015, he shall be liable for penalty as specified under section 15G of the SEBI Act, 1992.

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 time the amount of profits made out of insider trading, whichever is higher.

Moreover, as per section 24 of the SEBI Act, 1992, if any person contravenes or attempts to contravenes or abets the contravention of the provisions of the SEBI Act, 1992 or of any rules or regulations made thereunder, he shall be punishable with imprisonment for a term which may extend to ten years, or with fine, which may extend to twenty-five crore rupees or with both.

Further, if any person fails to pay the penalty imposed by the adjudicating officer or SEBI or fails to comply with any directions or orders, he shall be punishable with imprisonment for a term which shall not be less than one month but which may extend to ten years, or with fine, which may extend to twenty-five crore rupees or with both.

**June 2022**

(a)

**Answer the following with**

**reference to SEBI Insider Trading Regulations by giving reasons :**

**(i) Does exercise of ESOPs/ESPS come under the definition of Trading under the Insider Trading Regulations ?**

**(ii) Can a CFO, who has not reported to the Board of Directors, act as a Compliance Officer and update the Board on the transactions related to Insider Trading ?**

**(iii) Can the company appoint more than one person as Compliance Officer under the regulation ?**

**Ans-**

(i) As per the SEBI (Prohibition of Insider Trading) Regulations, 2015, "Trading" means and includes subscribing, buying, selling, dealing, or agreeing to subscribe, buy, sell, deal in any securities, and "trade" shall be construed accordingly. No insider shall trade in securities that are listed or proposed to be listed on a stock exchange when in possession of unpublished price sensitive information. However, the insider may prove his innocence by demonstrating the circumstance that the transaction in question was undertaken pursuant to the exercise of stock options in respect of which the exercise price was pre-determined in compliance with applicable regulations.

Therefore, exercise of ESOP's/ESPS shall not be considered to be "trading" except for the purposes of Chapter III of the SEBI (Prohibition of Insider Trading) Regulations, 2015 i.e. except for the disclosures requirements under the SEBI (Prohibition of Insider Trading) Regulations, 2015.

(ii) As per Regulation 2(1)(c) of the SEBI (Prohibition of Insider Trading)

Regulations, 2015, 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. The function and responsibility of the compliance officer are specified in Regulation 2(1)(c) of the SEBI (PIT) Regulations, 2015. 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 organisation as the case may be.

In view of the above a CFO in the present case cannot act as a Compliance Officer. Appointing any such person shall not be in accordance with the SEBI (Prohibition of Insider Trading) Regulations, 2015.

(iii) Yes, a company may appoint more than one person as Compliance Officer under the SEBI (PIT) Regulations, 2015. In case of appointing more than one person as compliance officer they shall be held jointly and severally responsible.

### **DECEMBER 2019**

**2 (c) Who can be a Compliance Officer under SEBI (PIT) Regulation, 2015 ? Will Engineering graduate from a top engineering college with 5 years of experience working as Chief Technical Officer (CTO) be a Compliance Officer? Discuss. (4 marks)**

**Answer 2 (c)** According to the Regulation 2(c) of SEBI (Prohibition of Insider Trading) Regulations, 2015 "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.

Explanation - For the purpose of this regulation, "financially literate" shall mean a person who has the ability to read and understand basic financial statements i.e. balance sheet, profit and Loss account, and statement of cash flow. As per the explanations, a person can be compliance officer only if he understands the basic financial statement. An engineer graduate who has experience of working as Chief Technology Officer can neither understand the basic financial statement i.e. balance sheet, profit and loss account, and statement of cash flows nor capable of understanding legal and regulatory compliance. Hence he is not eligible for appointment as compliance officer.

### **December 2020**

**1) As a Company Secretary in employment of Delux Ltd., a listed company, what will be your role in monitoring trading window under SEBI (Prohibition of Insider Trading) Regulations, 2015. (4 marks)**

**Solution:** Role of Company Secretary in monitoring trading window under SEBI (Prohibition of Insider Trading) Regulations, 2015 is as under:

- To ensure that the trading window shall be closed when 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.
- To ensure that the trading window is closed at the time of  
a) declaration of Financial results

- b) declaration of dividends;
- c) change in capital structure;
- d) mergers, de-mergers, acquisitions, de-listings, disposals and expansion of business and such other transactions;
- e) changes in key managerial personnel
- (ii) To ensure that designated persons and their immediate relatives shall not trade in securities when the trading window is closed.
- (i) To ensure that no trading shall between 20th day prior to closer of financial period and 2nd trading day after disclosure of financial results.
- (ii) To approve the trading plan and after the approval of trading plan, as compliance officer shall notify the plan to the stock exchanges on which the securities are listed.
- (iii) To keep records of period specified as 'close period' and the 'trading window'.
- (iv) To ensure that the trading restrictions are strictly observed and all directors/ officers/ designated employees conduct all their dealings in the securities of the company only in a valid trading window and do not deal in the company's securities during the period when the trading window is closed.
- (v) 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.

## **DECEMBER 2018**

### **2A (v) What is Trading Plan under SEBI (Prohibition of Insider Trading) Regulations, 2015? State the requirements to be complied with in this regard. (4 marks)**

**Answer 2A (v)** According to Regulation 5 of SEBI (Prohibition of Insider Trading) Regulations, 2015, an insider shall be entitled to formulate a trading plan and present it to the compliance officer for approval and public disclosure pursuant to which trades may be carried out on his behalf in accordance with such plan.

The trading plan shall comply with the following requirements:

- a) Trading can commence only after 6 months from public disclosure of plan.
- b) No trading between 20th trading day prior to closure of financial period and 2nd Trading day after disclosure of financial results.
- c) It shall be submitted for a minimum period of 12 months.
- d) No overlapping of plan with the existing plan submitted by Insider.
- e) It shall setup either the value of trades to be effected or the number of securities to be traded along with nature of the trade and the intervals at, or dates on which such trades shall be affected.
- f) The trading plan shall not entail trading in securities for market abuse.
- g) The compliance officer shall review the trading plan to assess whether the plan would have any potential for violation of the PIT regulations and shall be entitled to seek such express undertakings as may be necessary to enable such assessment.
- h) Compliance Officer to approve and monitor the implementation of the plan.
- i) The trading plan once approved shall be irrevocable and the insider shall mandatorily have to implement the plan, without being entitled to either deviate from it or to execute any trades in the securities outside the scope of the trading plan.
- j) (Except in few cases like where insider is in possession of price sensitive information at the time of formulation of the plan and such information has not become generally available at the time of the commencement of implementation).
- k) Upon approval of the trading plan, Compliance Officer shall notify the plan to the stock exchanges on which the securities are listed.

**4 (b) You are working as the Company Secretary of a listed company viz. Mindspare Ltd. The company is in advance stage of negotiation with a buyer, who will drastically improve the profitability and financial position of the company. You have got some information that one of the employees of the company, who is involved in the negotiation may indulge in trading of shares of the company. Being a compliance officer, you are required to formulate a code of conduct to regulate, monitor and report trading by employees and other connected persons towards achieving compliance with the SEBI (Prohibition of Insider Trading) Regulations, 2015. (7 marks)**

**Answer 4 (b)** The minimum standards for code of conduct to regulate, monitor and report trading by employees and other connected persons, is set out in schedule B to the SEBI (Prohibition of Insider Trading) Regulations, 2015, which is discussed below:

The compliance officer shall report to the Board of Directors and in particular, help 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.

- a) 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 the insider's legitimate purposes, performance of duties of discharge of his legal obligations.
- b) The code of conduct shall contain norms for appropriate Chinese Walls procedures, and processes for permitting any designated person to cross the wall.
- c) Employees and connected persons designated on the basis of their functional role (designated persons) in the organisation shall be governed by an internal code of conduct governing dealings in securities.
- d) The board of director shall in consultation with the compliance officer specify the designated persons to be covered by such code on the basis of their role and function in the organisation. Due regard shall be had to the access that such role and function would provide to unpublished price sensitive information in addition to seniority and professional designation.
- e) Designated persons may execute trades subject to compliance with these regulations. Towards this end, notional trading window shall be used as an instrument of monitoring trading by the designated persons.
- f) 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 incentive information. Search closer shall be imposed in relation to such securities to which such unpublished price sensitive information relates.
- g) Designated persons and their immediate relatives shall not trade in securities when the trading window is closed.
- h) The timing for reopening 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, in any event shall not be earlier than 48 hours after the information becomes generally available.

- i) The trading window shall also be applicable to any person having contractual or fiduciary relation with the company, such as auditor, accountancy firm, law firms, analysts, consultants, etc. assisting or advising the company.
- j) When the trading window is open, trading by designated persons shall be subject to pre-clearance by the compliance officer, the value of the proposed trades is above such threshold as the board of Directors make stipulate. No designated person shall apply for pre-clearance of any proposed trade if such designated person is in possession of unpublished price sensitive information even if the trading window is not closed.
- k) The compliance officer shall confidentially maintain a list of such securities as a restricted list which shall be used as the basis for approving or rejecting applications for pre-clearance of trades. 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.
- l) He shall also have regard to whether any such declaration is reasonably capable of being rendered in accurate.
- m) The code of conduct shall specify any reasonable time frame, which in any event shall not be more than 7 trading days, in which trades that have been pre-cleared have to be executed by the designated person, which fresh pre-clearance would be needed for the trades to be executed.
- n) The code of conduct shall specify the period, which in any event shall not be less than 6 months, which a designated person who is permitted to trade shall not execute a Contra trade. The compliance officer may be empowered to grant relaxation from strict application of such restrictions for reasons to be recorded in writing provided that such relaxation does not violate these regulations. Should a Contra trade be executed, advertently or otherwise, in violation of such a restriction, profits from such trade shall be liable to be disgorged for remittance to SEBI for credit to the Investor Protection and Education Fund administrated by SEBI under the act.
- o) The code of conduct shall stipulate such format 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, 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.
- p) The code of conduct shall stipulate the sanctions and disciplinary actions, including wage freeze, suspension, etc. that may be imposed, by the persons required to formulate a code of conduct for the contravention of the code of conduct.
- q) The code of conduct shall specify that in case it is observed by the persons required to formulate a code of conduct, there has been a violation of these regulations they shall inform SEBI promptly.

**June 2021**

1) “Trading plan is an exception to the general rule that an insider should not trade when in possession of unpublished price sensitive information”. In the light of this statement, explain the concept of trading plan and its essential elements. (4 marks)

**Solution:** An insider shall be entitled to formulate a trading plan and present it to the compliance officer for approval and public disclosure pursuant to which trades may be carried out on his behalf in accordance with such plan.

The trading plan shall:

- i. not entail commencement of trading on behalf of the insider earlier than six months from the public disclosure of the plan;
  - ii. not entail trading for the period between the twentieth trading day prior to the last day of any financial period for which results are required to be announced by the issuer of the securities and the second trading day after the disclosure of such financial results;
  - iii. entail trading for a period of not less than twelve months;
  - iv. not entail overlap of any period for which another trading plan is already in existence;
  - v. set out either the value of trades to be effected or the number of securities to be traded along with the nature of the trade and the intervals at, or dates on which such trades shall be effected; and
- not entail trading in securities for market abuse

2) Referring to the SEBI Insider Trading Regulations, answer the following :

- (a) What is ‘unpublished price sensitive information’ ?
- (b) State with reasons whether the following information is price sensitive :
  - (i) RBI has increased its Statutory Liquidity Ratio (SLR) by 15 basis points.
  - (ii) The company is increasing its authorized share capital. (4 marks)

**Solution:** The company shall as and by way of security for performance of its obligations under the SEBI (Buy back of Securities) Regulations, on or before the opening of the offer, deposit in an escrow account such sum as specified under the Regulations.

The amount in the escrow shall be deposited in the following manner:

Amount of Consideration	% of amount to be deposited
Consideration not more than ₹100 crores	25 per cent of the consideration payable;
Consideration exceeds ₹100 crores	25 per cent up to ₹100 crores and 10 per cent thereafter.

(v) The 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.

(i) Every buy back shall be completed within a period of one year from the date of passing of the special resolution passed at the general meeting, or the resolution passed by the Board of directors of the company, as the case may be.

**December 2021**

**1) The term internal control is generally linked to controls mechanism for financial and non-financial processes of an entity. Is there any internal control process to prevent insider trading under SEBI regulations ? You, being a Company Secretary of the company, suggest your CEO about internal controls to ensure the compliance under the said regulation ?(4 marks each)**

**Solution:** Regulation 9A of the SEBI (Prohibition of Insider Trading) Regulations, 2015 provides that the Chief Executive Officer, Managing Director or such other analogous person of a listed company, intermediary or fiduciary shall put in place adequate and effective system of internal controls to ensure compliance with the requirements given in these regulations to prevent insider trading.

The internal controls shall include the following:

- a) all employees who have access to unpublished price sensitive information are identified at designated person;
- b) all the unpublished price sensitive information shall be identified and its confidentiality shall be maintained as per the requirements of these regulations;
- c) adequate restrictions shall be placed on communication or procurement of unpublished price sensitive information as required by these regulations;

Regulation 9A of the SEBI (Prohibition of Insider Trading) Regulations, 2015 provides that the Chief Executive Officer, Managing Director or such other analogous person of a listed company, intermediary or fiduciary shall put in place adequate and effective system of internal controls to ensure compliance with the requirements given in these regulations to prevent insider trading.

The internal controls shall include the following:

- d) all employees who have access to unpublished price sensitive information are identified at designated person;
- e) all the unpublished price sensitive information shall be identified and its confidentiality shall be maintained as per the requirements of these regulations;
- f) adequate restrictions shall be placed on communication or procurement of unpublished price sensitive information as required by these regulations;

## CHAPTER 12 – MUTUAL FUNDS

**June 2023**

1. Daksh is planning to invest in Systematic Investment Plan (SIP) of a mutual fund with a fixed sum of ₹ 20,000 on 2nd of every month for four months. The NAV on these dates are ₹ 30.76, ₹ 42.18, ₹ 38.15 and ₹ 40.25 respectively. The entry load was 1.75% throughout the period. Find the average buy price including the amount of entry load.
- (ii) X has made an investment of ₹ 50,000 to buy 5000 units of Philip mutual fund on 4th April, 2021. He decided to sell the units on 14th November, 2021 at NAV of ₹ 20.60. The exit load was 2.25%. Find the sale value & gain made in the transaction.

Ans –

Month	NAV (in ₹) (a)	Entry load (in ₹) 1.75% (b)	Total Price (in ₹) (c) = (a) + (b)	No. of Unit – 20,000/Total Price (c)
1	30.76	0.5383	31.2983	639.0123
2	42.18	0.7381	42.9181	466.0038
3	38.15	0.6676	38.8176	515.2302
4	40.25	0.7043	40.9543	488.3492
				2108.5955

Average Price = Total Amount/Total No. of Unit  
= ₹ 80,000/2108.5955 = ₹ 37.9399 or ₹ 37.94

(ii) No. of Unit - 5000, Purchase Cost ₹ 50,000; NAV on the date of sale ₹ 20.60.

Exit Load = 2.25% of ₹ 20.60 = ₹ 0.4635

= ₹ 20.60 - ₹ 0.4635 = ₹ 20.1365

Sales Value = 5,000 x ₹ 20.1365 = ₹ 1,00,682.5 Gain = ₹ 1,00,682.5 - ₹ 50,000 = ₹ 50,682

2. SEBI has come out with modified provisions for investment and trading in securities by employees of Asset Management Companies (AMCs) and trustees of mutual funds. Explain briefly the term “access person” under these provisions

**Ans -** SEBI, vide its circular No. SEBI/HO/IMD/IMD-I DOF5/P/CIR/2021/654 dated October 28, 2021, came out with modified provisions for investment and trading in securities by employees of Asset Management Companies (AMCs) and trustees of mutual funds. To ensure that the employees of AMC(s), Board members of AMC(s) and Board members of Trustees, including Access Persons shall not take undue advantage of any sensitive information that they may have about any company or its securities or about the AMC’s schemes or its units, a category of "access persons" has been created.

Access person shall mean the Head of the AMC (designated as CEO/Managing Director/ President or by any other name). Executive Director, Chief Investment Officer, Chief Risk Officer, Chief Operation Officer, Chief Information Security Officer, Fund managers, Dealers, Research Analysts, all employees in the Fund Operations Department, Compliance officer

and Heads of all divisions and/or departments or any other employees as decided by the AMC(s) and/or Trustees. Non-executive Directors of the AMC/trustee company or trustees who are in possession of/have access to any non-public information which could materially impact the price of the securities, NAV of the schemes or interest of the unit holders, shall also be deemed as Access Person.

### **June 2022**

**(a) Grow India Ltd. has recently launched a Mutual Fund Scheme with the name 'GI Equity Multi Cap Scheme' with following details**

<b>Size of the Scheme</b>	<b>₹ 200 lakh</b>
<b>Face value of the unit</b>	<b>₹ 20</b>
<b>Number of the outstanding units</b>	<b>₹ 20 lakh</b>
<b>Market value of the fund's investments</b>	<b>₹ 360 lakh</b>
<b>receivables</b>	
<b>Accrued Income</b>	<b>₹ 2 lakh</b>
<b>Receivables</b>	<b>₹ 2 lakh</b>
<b>Liabilities</b>	<b>₹ 1 lakh</b>
<b>Accrued expenses</b>	<b>₹ 1 lakh</b>

- (i) What do you mean by NAV ?**
- (ii) Find out the NAV in the present case.**
- (iii) What does an expense ratio contain in a Mutual Fund Scheme ?**

### **Ans-**

**(i) Net Asset Value**

The performance of a particular scheme of a mutual fund is denoted by Net Asset Value (NAV).

In simple words, NAV is the market value of the securities held by the scheme. Mutual funds invest the money collected from investors in securities markets. Since market value of securities changes every day, NAV of a scheme also varies on day-to-day basis. The NAV per unit is the market value of securities of a scheme divided by the total number of units of the scheme on any particular date.

**(ii) Net Asset Value = (Market value of investments + Receivables + accrued income + other assets – Accrued Expenses - Other Payables - Other Liabilities) / No. of units (mutual fund)**

NAV in the given case-

$$= (\text{₹ 360 lakh} + \text{₹ 2 lakh} + \text{₹ 2 lakh} - \text{₹ 1 lakh} - \text{₹ 1 lakh}) / 20 \text{ Lakh} \text{NAV} = \text{₹ 18.10}$$

per unit

**(iii) Expense Ratio contains:**

- Fees paid to service providers like trustees, Registrar & Transfer Agents, Custodian, Auditor, etc.
- Asset management expenses
- Commissions paid to distributors
- Other selling expenses including advertising expenses
- Expenses on investor communication, account statements, dividend / redemption cheques / warrants

- Listing fees and Depository fees
- Service tax

### DECEMBER 2019

1 (a) A Mutual fund has shown Net Asset Value (NAV) of ₹11.60 at the commencement of the year. At the end of the year NAV increases to ₹12.50. Meanwhile, the Fund distributes

₹0.75 as dividend and ₹0.85 as capital gains.

(i) Calculate the fund's return during the year.

(ii) Had these distributions been re-invested at an average NAV of ₹12.20, what is the return for 400 units ? (5 Marks)

#### Answer 1(a)

Change in NAV price (₹12.50 - ₹11.60) = ₹0.90

Increase in price ₹0.90 + Dividend received ₹0.75 + Capital gain distributed ₹0.85 = ₹2.50

(i) Holding period return =  $\frac{₹2.50}{₹11.60} = 21.55\%$

(ii) When dividend and capital gains are reinvested into additional units of the Fund :

Return per unit : dividend + capital gain = ₹0.75 + ₹0.85 = ₹1.60

Hence, total return received for 400 units = ₹1.60 x 400 = ₹640 Additional units that can be purchased =  $\frac{₹640}{12.20} = 52.46$  units

#### 2A (i) Explain the various risks involved in investing in mutual funds. (4 Marks)

#### Answer 2A (i)

Risks Involved in Mutual Funds

The following events may result into non- satisfactory performance of Mutual Funds:

- Excessive diversifications of portfolio, losing focus on the securities of the key segments;
- Too much connection on blue-chip securities;
- Poor planning of investment returns;
- Un-researched 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;
- Necessity to effect high turnover through liquidation of portfolio resulting in large payments of brokerage and commission.

## **JUNE 2019**

1 (a) A Mutual Fund having 300 units has shown Net Asset Value (NAV) of ₹8.75 and ₹9.45 at the beginning and at the end of the year respectively. The Mutual Fund has given two options :

(i) Pay ₹ 0.75 per unit as dividend and ₹0.60 per unit as capital appreciation; or

(ii) These distributions are to be reinvested at an average NAV of ₹8.65 per unit

What difference it would make in terms of return available and which option is preferable?

(5 Marks)

### **Answer 1 (a)**

#### **Basic data for Computation**

Opening NAV	Rs. 8.75
Closing NAV	Rs. 9.45
Dividend	Rs. 0.75
Capital gain appreciation [Closing NAV- Opening NAV]	Rs. 0.70
Capital gain distribution	Rs. 0.60
Price paid at the year beginning [300 units x Rs. 8.75]	Rs. 2,625

#### **Option I: Returns are distributed to Mutual Fund Holders**

##### **Total Fund Assets:**

NAV on closing date [9.45 x 300]	Rs. 2,835
Dividend payable [0.75 x 300]	Rs. 225
Capital gain distribution [0.60 x 300]	Rs. 180
Rs. 3,240	
Returns : (Rs. 3, 240- Rs.2,625)/Rs. 2,625 = 23.43 %	<b>OR</b>

##### **Alternate Answer**

#### **Option I: When Dividend and Capital Gain are paid:**

Calculation of monthly return on the mutual funds:

$$R = \frac{\text{NAV}_1 - \text{NAV}_{t-1} + I_t + G_t}{\text{NAV}_{t-1}}$$

NAV<sub>t-1</sub>

$$R = \frac{\text{Rs. 9.45} - \text{Rs. 8.75} + (\text{Rs.0.75} + \text{Rs. 0.60})}{\text{Rs. 8.75}}$$

Rs. 8.75

$$= \frac{0.70 + 1.35}{8.75} = 23.43 \%$$

8.75

#### **Option II: The distributions are reinvested at an average NAV of Rs. 8.65 per unit**

##### **(i) Distribution reinvested**

Capital gain [Rs. 0.60 x 300]	Rs. 180
Dividend [Rs.0.75 x 300]	Rs. 225
Total Distribution	Rs. 405

No. of units [Total distributions ÷ Average NAV per unit= Rs. 405 ÷ Rs. 8.65] 46.82

##### **(ii) Preparation of fund position**

NAV on closing date fund assets

- 300 units @ Rs.9.45 Rs. 2,835.00  
- 46.82 units @ Rs.9.45 Rs. 442.45  
Rs. 3,277.45

Returns:  $(3,277.45-2,625)/2625 = 24.85\%$

## **JUNE 2019**

**4 (a) The price of equity share of a listed company viz. NextDial Ltd. (NDL) increased from**

**₹10 to high of ₹50 i.e. a rise of 500% during the period 1st April, 2018 to 30th Sept., 2018. NDL had entered into a Share Purchase Agreement (SPA) with the proposed acquirer(s) to acquire 40% of the subscribed equity share capital as of 31st August 2018 which would result in change of management. This initial discussion on the deal was made on 1st April, 2018 but SPA was signed on 25th April, 2018. During 1st April, 2018 to 30th Sept., 2018, the promoter and his wife dealt in the script of NextDial Ltd. Referring to the provisions of SEBI (PIT) Regulations, answer the following:**

- I. Define Unpublished Price Sensitive Information.**
- II. Whether there was any Unpublished Price Sensitive Information (UPSI)?**
- III. What will be the date of UPSI?**
- IV. What are the factors to be taken into account by the adjudicating officer while imposing penalty for the act? (8 marks)**

**Answer 4 (a)** The SEBI (Prohibition of Insider Trading) Regulations, 2015 defines “Unpublished Price Sensitive Information” which means any information, relating to a company or its securities, directly or indirectly, that is not generally available which upon becoming generally available, is likely to materially affect the price of the securities and shall, ordinarily including but not restricted to, information relating to the following:-

- a) financial results;
- b) dividends;
- c) change in capital structure
- d) mergers, de-mergers, acquisitions, delisting's, disposals and expansion of business and such other transactions;
- e) Changes in key managerial personnel.
- f) The promoter of Next Dial Ltd. was involved in the negotiation for fixing the share price and traded in the shares of the company while being privy to the price sensitive information. Therefore, it is alleged that promoter had dealt in the shares of the company while in possession of or on the basis of the Unpublished Price Sensitive Information (UPSI). Additionally, he has also communicated or counseled, directly or indirectly, the UPSI to his wife, who in turn has also traded in the shares of the company.
- g) The definition of Price Sensitive Information also includes the following as Price Sensitive Information; (a) amalgamation, mergers or takeovers, (b) disposal of the whole or substantial part of the undertaking. So Unpublished Price Sensitive Information (UPSI) was existed.
- h) In the mentioned case, Share Purchase Agreement (SPA) was signed on 25th April, 2018. Taking into consideration when the SPA was signed, the UPSI is considered to have originated on April 25, 2018.

i) While imposing monetary penalty, it is obligatory to consider the factors stipulated in Section 15J of the SEBI Act, 1992 which reads as under:

- I. The amount of disproportionate gain or unfair advantage, whenever quantifiable, made as a result of the default
- II. The amount of loss caused to an investor or group of investors as a result of the default;
- III. The repetitive nature of the default.

### **Alternate Answer**

#### **Option II: When Dividend and Capital Gain are reinvested:**

If all dividends and capital gain are reinvested into additional units at Rs. 8.65 per unit the position would be.

Total amount reinvested = Rs. 1.35 x 300 = Rs.405

Additional units added = Rs. 405 / 8.65 = 46.82 units or 47 units

Value of units at the end = 346.82 units x Rs. 9.45 = Rs. 3, 277.45

Or = 347 units x Rs. 9.45 = Rs.3, 279.15

Price paid for 300 units as at the beginning = (300 x Rs. 8.75) = Rs. 2,625

Return = (Rs. 3, 277.45 – Rs. 2, 625) / Rs. 2, 625 = 24.86%

Or Return = Rs. 3, 279.15 - Rs. 2, 625 / Rs. 2,625

= Rs. 654.15 / Rs. 2,625 = 24.92%

**Conclusion: From the above, it can be said that reinvestment option is better as it yield higher return by 1.49%.**

**2 (e)** Life-Changing Assets Management Ltd., a mutual funds company desires to engage a bollywood celebrity to popularize its schemes. Explain the SEBI provisions with regard to celebrity endorsements of Mutual Funds at industry level. (4 Marks)

**Answer 2 (e)** SEBI vide its Circular No. CIR/IMD/DF/23/2017 dated 15/03/2017 reviewed the advertisement guidelines for mutual funds.

In this respect, it has been decided to permit celebrity endorsements at industry level, for the purpose of increasing awareness of Mutual Funds as a financial product category. However, such celebrity endorsements of Mutual Funds at industry level, shall be subject to the following conditions:

i. Celebrity endorsement shall be allowed only at the industry level, for the purpose of increasing awareness of Mutual Funds as a financial product category. Such celebrity endorsements should not promote a scheme of a particular Mutual Fund or be used as a branding exercise of a Mutual Fund house.

ii. Expenses towards such celebrity endorsements for increasing awareness of Mutual Funds shall be limited to the amounts that are aggregated by Mutual Funds at industry level for the purpose of conducting investor education and awareness initiatives, in terms of clause F of SEBI circular dated September 13, 2012.

iii. Prior approval of SEBI shall be required for issuance of any endorsement of Mutual Funds as a financial product, which features a celebrity for the purpose of increasing awareness of Mutual Funds.



## **DECEMBER 2018**

**1 (a) A mutual fund has a NAV of ₹11.50 at the beginning of the year. At the end of the year NAV increases to ₹12.10. Meanwhile the fund distributes ₹0.80 as dividend and ₹0.70 as capital gains.**

**(i) What is the fund's return during the year ?**

**(ii) Had these distributions been re-invested at an average NAV of ₹11.80, what is the return for 200 units? (5 Marks)**

### **Answer 1 (a)**

(i) Return for the year (all changes on a per unit basis)

Change in price (₹12.10 - ₹11.50) = ₹0.60

Dividends Received ₹0.80

Capital gains distributions ₹0.70

Total return = ₹2.10

Holding period return = ₹2.10/₹11.50 = ₹18.26

(ii) When all dividends and capital gains distributions are reinvested into additional units of the fund (₹11.80/unit) :

Dividends and capital gains per unit: ₹0.80 + ₹0.70 = ₹1.50

Total received from 200 units: ₹1.50 x 200 = ₹300.00

Additional units acquired: ₹300/ ₹11.80 = 25.42 units

Value of 225.42 units held at the end of year = 225.42 units x ₹12.10 = ₹2727.

Price paid for 200 units at beginning of year 200 units x ₹11.50 = ₹2,300

The holding period return would be = (₹2727.58 - ₹2300)/₹2300 = ₹18.59

**1 (b) "Expense Ratio for a mutual fund should be as low as possible." Explain how increase or decrease in Total Expense Ratio (TER) shall be disclosed by Asset Management Company under SEBI (Mutual Funds) Regulations, 1996?**

**Answer 1 (b)** The expense ratio is calculated as a percentage of the Scheme's average Net Asset Value (NAV). The daily NAV of a mutual fund is disclosed after deducting the expenses. Thus, the Total Expense Ratio (TER) has a direct bearing on a scheme's NAV- the lower the expense ratio of a scheme, the higher the NAV.

According to the SEBI Circular No. SEBI/ HO/IMD/DF2/CIR/P/2018/91 dated June 05, 2018, the Asset Management Companies (AMCs) shall predominantly disclose on a daily basis, the TER (Scheme-wise, date-wise) of all schemes under a separate head – "Total

Expense Ratio of Mutual Fund Schemes" on their website and on the website of Association of Mutual Funds of India (AMFI).

Any change in the base TER (i.e. TER excluding additional expenses provided in SEBI (Mutual Funds) Regulations, 1996 and Goods and Services Tax on investment and advisory fees) in comparison to previous base TER charged to any scheme/plan shall be communicated to investors of the scheme/plan through notice via email or SMS at least three working days prior to effecting such change. Further, the notice of change in base TER shall be updated in the aforesaid section of website at least three working days prior to effecting such change. However, any decrease in TER in a mutual fund scheme due to various regulatory requirements, would not require issuance of any prior notice to the investors.

## December 2020

(b) Question 1: The information relating to one Equity Oriented Mutual Fund is given below :

As on 2nd January, 2019 (₹ in thousand)	As on 3rd January, 2019		
Market Value of Fund's Portfolio	(₹) 19,300	19,800	
Receivables	(₹) 200	200	
Other Accrued Income	(₹) 150	150	
Accrued Expenses	(₹) 50	50	
Other Payables	(₹) 100	100	
Units of Mutual Fund	5,00,000	5,00,000	

Face value per unit is ₹10.

You are required to calculate :

- NAV of the fund on 2nd January, 2019 and 3rd January, 2019.
- Ramesh invested ₹1,95,000 in this Fund on 2nd January, 2019 at 02:00 PM, through Internet Banking Payment System. Calculate the number of mutual fund units allotted to him. Assume that there is no transaction cost (5 marks)

(i) **Solution:** Calculation of NAV of Mutual Fund Scheme

	As on January 02, 2019	As on January 03, 2019
Market Value of Funds Portfolio	19,300	19,800
Add : Receivables	200	200
Add : Other Accrued Income	150	150
Less : Accrued Expenses	50	50
Less : other Payables	100	100
Net Asset of Scheme (in thousands)	19,500	20,000
Units outstanding (in thousands)	500	500
NAV per Unit	₹39	₹40

(ii) In case, the Equity Oriented Mutual Fund is purchased before 3:00 PM on a trading day, the NAV of same day is applicable.

Here, Ramesh invested on January 02, 20219 at 2:00 PM so the NAV of the same day is applicable. Number of mutual fund units allotted to him will be calculated using the NAV of same day i.e January 02, 2019.

Number of Units to be allotted = Amount invested /applicable NAV per unit

Hence, the number of units allotted to Ramesh will be ₹1,95,000/ ₹39 = 5000

## June 2021

1) units of a debt scheme of a mutual fund. On 7th June, 2020 he is interested to redeem these units. Prevailing net asset value (NAV) of these units are as R is holding 2000 units of a equity-oriented scheme of a mutual fund and 1000 under :

Date	Net Asset Value (NAV)	
	Equity-oriented scheme (in ₹)	Debt scheme (in ₹)
6th June	45	35
7th June	46	34
8th June	47	33

He makes an application for redemption of above units on 7th June, 2020 at 2:30 pm. Based on given information answer the following :

(i) What do you mean by cut-off time ? What are the cut-off time for equity- oriented & Debt funds (except liquid funds) ?

(ii) What will be the applicable NAV in his case ?

What will be applicable NAV if application for redemption is made at 3:15 pm ?  
(3+1+1 marks)

**Solution:** The cut-off time determines the Net Asset Value (NAV) on which an investor buy or sell the units of a mutual fund scheme. Simply, the allotment and redemption of NAV depends on the time of submitting application and/or money with the fund house for purchase or sale. This time is called cut-off time in the mutual fund world.

Net Asset Value (NAV) Cut-off Timelines

Type of Transaction	Before/After	Cut-Off Time	Applicable NAV
Equity-oriented & Debt funds (except liquid funds)			
Purchase & Switch – in (Value < ₹2 Lakhs)	3 pm	Before	Same day NAV
		After	Next Business day NAV
Purchase & Switch – in (Value > ₹2 Lakhs)	3 pm	Before	NAC of the business day on which funds are available for utilisation
		After	
Redemption & Switch- Out	3 pm	Before	Same day NAV
		After	Next Business day NAV

(i) In the given case, since application is submitted before 3 pm so same day NAV (i.e. the NAV on which application for redemption has been submitted) will be applicable. Thus,

In case of equity oriented scheme = ₹46 will be applicable NAV

In case of debt scheme = ₹34 will be applicable NAV

(ii) If application for redemption is submitted at 3:15 pm after 3 pm then next day NAV will be applicable. Thus,

In case of equity oriented scheme = ₹47 will be applicable NAV

In case of debt scheme = ₹33 will be applicable NAV

## **December 2021**

1) (i) Rakesh has invested ₹20,000 in PQR Mutual Fund with entry load 1%. Find out the Net Asset Value if the number of units purchased was 100.

(ii) Pritam is holding SALORA Mutual Fund units. He sold all the units at a NAV of ₹120 with exit load of 1%. He received ₹52,000. Find the number of units sold by Pritam.

(2+3=5 marks)

**Solution:**

**Step - 1**

Let NAV of 1 unit = X

Therefore, purchase Price of 1 unit = NAV + Entry Load (1%)

$$= X + (.01X) = 1.01 X$$

**Step - 2**

Amount Investment - ₹20,000; No. of unit purchased – 100 Purchase price of 1 unit= Amount invested/No of unit purchased

$$= \frac{20,000}{100} = 200$$

**From Step 1 and 2**

$$1.01X = 200$$

$$X = \frac{200}{1.01} = \text{Rs. } 198.02$$

**Answer 1(a)(ii)**

Given- NAV=Rs. 120 Exit Load – 1%

Total Amount Received = ₹52,000

Now Selling Price of 1 unit = NAV – Exit Load

$$= 120 - \left\{ \left( \frac{1}{100} \right) \times 120 \right\} = 118.80$$

$$\text{No. of unit Sold} = \frac{52,000}{118.80} = 437.71 \text{ unit}$$

2) “While evaluating the performance of a mutual fund, one must not be led by the mutual fund return in isolation.” In this context, elucidate how performance of mutual fund is evaluated ?

**Solution:** While looking at a mutual fund scheme's performance, one must not be led by the scheme's return in isolation. A scheme may have generated 10% annualised return in the last couple of years. But then, even the market indices would have gone up in similar way during the same period. Under-performance in a falling market, i.e. when the NAV of the scheme falls more than its benchmark (or the market), is the time when one must review his/her investment. One must compare the scheme's return as against its benchmark return. It is better to be rid of investment in a scheme that consistently under-performs as compared to its benchmark over a period of time, from one's portfolio. It is important to identify under- performers over the longer time horizon (as also out-performers).

In addition, one may also consider evaluating the category average returns as well. Even if a scheme has outperformed its benchmark by a decent margin, there could be better performers in the peer group. The category average returns will reveal how good (or bad) is one's investment is against its peers which help in deciding whether it is time to shift the investment to better performers.

One may be holding a too little or too much-diversified portfolio. Even the expense ratio of some of the schemes that one could be holding may be high compared to others within the same category.

## CHAPTER 13 – COLLECTIVE INVESTMENT SCHEMES

**June 2022**

(a) **Leisure Hill Cottage Ltd., collected ₹ 500 crore from general public under its novel scheme, “Roaming Holiday”. The scheme provides monthly instalments and upon completion of installment tenure, the investor can opt for holiday with all facilities or a return of corpus with interest. Will this scheme come under the SEBI regulations ? Explain.**

**Ans-**

As per Regulation 2(2) of the SEBI (Collective Investment Schemes) Regulations, 1999, the expression ‘collective investment scheme’ shall have the same meaning as assigned to it under section 11AA of the SEBI Act, 1992.

Proviso to Section 11AA(1) of the SEBI Act, 1992 provides that any pooling of funds under any scheme or arrangement, which is not registered with SEBI, involving a corpus amount of one hundred crore rupees or more shall be deemed to be a collective investment scheme.

Section 11AA (2) of the SEBI Act, 1992 provides that the following scheme or arrangement made or offered by any person shall be a collective investment scheme under which,—

- (i) the contributions, or payments made by the investors, by whatever name called, are pooled and utilized for the purposes of the scheme or arrangement;
- (ii) the contributions or payments are made to such scheme or arrangement by the investors with a view to receive profits, income, produce or property, whether movable or immovable, from such scheme or arrangement;
- (iii) the property, contribution or investment forming part of scheme or arrangement, whether identifiable or not, is managed on behalf of the investors;
- (iv) the investors do not have day-to-day control over the management and operation of the scheme or arrangement.

Section 11AA (2A) of the SEBI Act, 1992 provides that any scheme or arrangement made or offered by any person satisfying the conditions as may be specified in accordance with the regulations made under this Act shall be a collective investment scheme.

In view of the above, since Leisure Hill Cottage Ltd. collected ₹ 500 crore from general public under its novel scheme, “Roaming Holiday”, meeting the criteria given as above, this scheme comes under the SEBI (Collective Investment Schemes) Regulations, 1999.

**1) Co-ordination of Trustee and Collective Investment Management Company is absolutely necessary for success of a Collective Investment Scheme.” Explain in this context, the rights available to the trustee. (4 marks)**

**Solution:** The trustees have a right to obtain from Collective Investment Management Company (CIMC) such information as is considered necessary by the trustee and to inspect the books of accounts and other records relating to the Scheme. The trustee should ensure that the CIMC has:

- i. appointed all key personnel including managers for the schemes and submitted their bio-data which shall contain the educational qualifications and past experiences in the areas relevant for fulfilling the objectives of the schemes;
- ii. appointed auditors from the list of auditors approved by SEBI to audit the accounts of the scheme;
- iii. appointed a compliance officer to comply with the provisions of the Act and these regulations and to redress investor grievances;
- iv. appointed registrars to an issue and share transfer agent;
- v. prepared a compliance manual and designed internal control mechanisms including internal audit systems;
- vi. taken adequate insurance for the assets of the scheme;
- vii. not given any undue or unfair advantage to any associates of the company or dealt with any of the associates in any manner detrimental to the interest of the unit holders;
- viii. operated the scheme in accordance with the provisions of the trust deed, these regulations and the offer document of the scheme(s);
- ix. undertaken the activity of managing schemes only;
- x. taken adequate steps to ensure that the interest of investors of one scheme is not compromised with the object of promoting the interest of investors of any other scheme;
- xi. maintained minimum net worth on a continuous basis and shall inform the SEBI immediately of any shortfall;
- xii. been diligent in empanelling the marketing agents and in monitoring their activities.

### **December 2021**

**1) What do you understand by the word “Ponzi Scheme” ? Who regulate the Collective Investment Scheme ? List any four key aspects for launching a Collective Investment Scheme.**

**Solution:** A Ponzi Scheme is an investment from where clients are promised a large profit in short term at little or no risk at all.

The Securities and Exchange Board of India is the regulatory authority of the Collective Investment Scheme.

The Key aspects for launching a Collective Investment Scheme (CIS) as per the SEBI (Collective Investment Scheme) Regulations, 1999 are given hereunder -

- The company floating CIS shall have to seek registration with SEBI as Collective Investment Management Company (CIMC).
- CIS shall be constituted as a two tiered structure comprising of a trust and a CIMC.
- At the time of application for Registration as CIMC, these entities should have a minimum networth of Rs. 3 crores which shall have to be increased to Rs. 5 crores within three years from the date of grant of registration.
- Every collective investment Scheme shall have to file offer documents with SEBI containing adequate disclosures to enable the investors to take informed investment decisions.
- Each collective investment scheme shall have to obtain a rating from recognised credit rating agencies.

- The collective investment scheme must also be appraised by an appraising agency.
- 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.
- Advertisements in respect of every collective investment scheme shall have to conform to the SEBI's advertisement code.
- No collective investment scheme shall be kept open for subscription for a period of more than 90 days. The collective investment schemes must indicate the minimum and maximum amount proposed to be raised over this period.
- The collective investment schemes shall be close ended in nature.
- The duration of the collective investment schemes shall be for a minimum period of 3 years.
- Compulsory Insurance cover for the assets of the collective investment scheme and personal indemnity cover for the CIMC shall be obtained.
- Units issued under the Collective Investment Schemes are to be compulsorily listed on recognised stock exchanges.

## CHAPTER 14 – SEBI (OMBUDSMAN) REGULATIONS, 2003

**June 2023**

**1. PTM Ltd., a listed company has declared dividend to its registered shareholders on 1 st January, 2021 but the company did not pay the dividend till 31st January, 2021.**

**i) Whether the registered shareholder can lodge the complaint on SCORES Portal ? If yes, then what is the timeline for lodging the complaint on SCORES ?**

**ii) What happens if registered shareholders fail to lodge a complaint on SCORES within the stipulated period ?**

**iii) Can the shareholder file complaint on SCORES portal without first approaching to the company?**

**Ans -**

(i) Yes, Registered shareholder can lodge the complaint to SCORES Portal if the Company fails to pay the declared dividend within 30 days from the declaration of the dividend to all its registered shareholder. The date of cause of complaint would be 31.01.2021 (as the dividend was declared on 01.01.2021) and a complaint can be lodged on SCORES within 1 year from 31.01.2021.

(ii) SEBI reserves its right to reject a complaint lodged on SCORES, if the date of cause of action is more than one-year-old and/or the complainant has not taken up the complaint with the concerned entity prior to the said date.

Securities and other laws provide important legal rights and remedies if investors have suffered wrongdoing. Acting on their own, they can seek to resolve the complaint through the courts, consumer courts, or arbitration. To take advantage of these laws, the complainant must take legal action promptly or they may lose the right to recover funds. As per the "law of limitations," there are some time periods within which court proceedings should be initiated.

According to Companies Act, 2013, any person claiming to be entitled to any money transferred to the Unpaid Dividend Account of the company may apply to the company for payment of the money claimed. Also, any claimant of shares transferred to the Unpaid Dividend Account shall be entitled to claim the transfer of shares from Investor Education and Protection Fund in accordance with such procedure and on submission of such documents as may be prescribed.

(iii) The complainant may use SCORES to submit the complaint or grievance directly to the listed companies / intermediaries / MIs for resolution. Such a complaint is called a "Direct Complaint" and shall be redressed by the entity within 30 days without any intervention of SEBI, failing which the complaint shall be registered on SCORES. Thereafter, SEBI shall take it up with the entity concerned.

**June 2022**

**(a) “The complaints related to trade, settlement and deficiency in services resulting into any financial loss to an investor, if not resolved amicably by the stock exchange, shall be referred to the Investor Grievance Redressal Committee (IGRC)”. Explain the procedure for handling of complaints by IGRC as per SEBI circular.**

**Ans-**

**Handling of complaints by Investor Grievance Redressal Committee (IGRC)**

In order to further strengthen the Investor Grievance Redressal Mechanism, the SEBI vide its circular dated 6th November, 2020 specified that for Complaints related to trade, settlement and ‘deficiency in services’, resulting into any financial loss, the stock

exchange shall resolve the complaint on its own as per the time lines prescribed. However, if complaint is not resolved amicably, the same shall be referred to the IGRC, after recording the reasons in writing by the Chief Regulatory Officer of the Stock Exchange or any other officer of the Stock Exchange authorized in this behalf by the Managing Director.

i. IGRC shall have a time of 15 working days to amicably resolve the investor complaint through conciliation process. If IGRC needs additional information, then IGRC may request the Stock Exchange to provide the same before the initiation of the conciliation process. In such case, where additional information is sought, the timeline for resolution of the complaint by IGRC shall not exceed 30 working days.

ii. IGRC shall not dispose the complaint citing “Lack of Information and complexity of the case”. The IGRC shall give its recommendation to Stock Exchange.

iii. IGRC shall decide claim value admissible to the complainant, upon conclusion of the proceedings of IGRC. In case claim is admissible to the complainant, Stock Exchanges shall block the admissible claim value from the deposit of the member as specified in this regard.

iv. Expenses of IGRC shall be borne by the respective Stock Exchange and no fees shall be charged to the complainant/member.

The Stock Exchange shall organize regular training program for IGRC members in consultation with National Institute of Securities Markets (“NISM”). The cost of such program shall be borne by Investor Service Fund (“ISF”) of the Stock Exchange

## **DECEMBER 2019**

**2 (d) SEBI Complaints Redress System (SCORES) has been established to resolve the grievances of the Investors. What is the procedure for redressal of investor grievances using SCORES platform ? State the revised features. (4 marks)**

**Answer 2(d)** Revised procedure for redressal of investor grievances using SCORES platform is as under:

(a) Investors who wish to lodge a complaint on SCORES are requested to register themselves on [www.scores.gov.in](http://www.scores.gov.in) by clicking on "Register here" While filing the registration form, details like Name of the investor, PAN, Contact details, Email id, Aadhaar card number (optional), KYC ID (optional) etc. may be provided for effective communication and speedy redressal of the grievances. Upon successful registration, a unique user id and a password shall be communicated to the investor through an acknowledgement email / SMS.

(b) An investor shall use login credentials for lodging complaint on SCORES ("Login for registered user" section).

(c) The complainant may use SCORES to submit the grievance directly to companies/intermediaries and the complaint shall be forwarded to the entity for resolution. The entity is required to redress the grievance within 30 days, failing which the complaint shall be registered in SCORES

(d) Presently, the limitation period for filing an arbitration reference with stock exchanges is three year. In line with the same and in order to enhance case, speed & accuracy in redressal of investor grievance, the investor may lodge a complaint on SCORES within three years from the date of cause of complaint, where;

- Investor has approached the listed company or registered intermediary for redressal of the complaint and,
- The concerned listed company or registered intermediary rejected the complaint or,
- The complainant does not receive any communication from the listed company or intermediary concerned or,
- The complainant is not satisfied with the reply given to him or redressal action taken by the listed company or an intermediary.

To enhance investor satisfaction on complaint redressal, SEBI has already put in place a 'Complaint Review facility' under SCORES wherein an investor if unsatisfied with the redressal may within 15 days from the date of closure of his complaint in SCORES opt for review of the complaint and the complaint shall be escalated.

**2A (v) What are the matters that cannot be considered as complaints under SCORES? Specify details. (4 marks)**

**Answer 2A(v)** Presently, the following types of complaints are not dealt through SCORES:

(i) Complaints against the companies which are unlisted/delisted, in dissemination board of Stock Exchanges,

(ii) Complaints those are sub-judice i.e. relating to cases which are under consideration by court of law, quasi-judicial proceedings etc.

(iii) Complaints falling under the purview of other regulatory bodies viz. RBI, IRDAI, PFRDA, CCI, etc., or under the purview of other ministries viz., MCA, etc.

(iv) Complaints against a sick company or a company where a moratorium order is passed in winding up / insolvency proceedings.

(v) Complaints against the companies where the name of company is struck off from ROC or a vanishing company as per list published by MCA. vi. Suspended companies, companies under liquidation / BIFR / etc

### **Alternate Answer**

The matters that cannot be considered as complaints in SCORES:

- a. Complaint not pertaining to investment in securities market
- b. Anonymous Complaints (except whistle-blower complaints)
- c. Incomplete or un-specific complaints
- d. Allegations without supporting documents
- e. Suggestions or seeking guidance/explanation
- f. Not satisfied with trading price of the shares of the companies. g. Non-listing of shares of private offer
- h. Disputes arising out of private agreement with companies/intermediaries
- i. Matter involving fake/forged documents
- j. Complaints on matters not in SEBI purview
- k. Complaints about any unregistered/un-regulated activity.

### **JUNE 2019**

#### **3 (c) Explain what is Informal Guidance under SEBI (Informal Guidance) Scheme, 2013 and who can seek guidance from SEBI ? (5 marks)**

**Answer 3(c)** In the interests of better regulation of and orderly development of the securities market, SEBI has issued SEBI (Informal Guidance) Scheme 2003. The following persons may make a request for informal Guidance under the scheme:

- (a) any intermediary registered with the SEBI.
- (b) any listed company.
- (c) any company which intends to get any of its securities listed and which has filed either a listing application with any stock exchange or a draft offer document with the SEBI or the Central Listing authority.
- (d) any mutual fund trustee company or asset management company.
- (e) any acquirer or prospective acquirer under the SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 1997. (Now SEBI Takeover Regulations, 2011)

The Guidance Scheme, further deals with various aspects such as the nature of request, fees to be accompanied along with request letter, disposal of requests, SEBI's discretion not to respond certain types of requests and confidentiality of requests, etc.

## **DECEMBER 2018**

**4 (a) Prateek applied in the IPO of Maxgrow Ltd. for 100 Equity Shares. He was not eligible to get any shares according to the allotment schedule and also has not received the refund amount within the time stipulated under the Companies Act, 2013. Prateek approached the Company through written representation on January 10, 2018. The company neither replied nor processed the refund claim. In the light of the SEBI Regulations, answer the following :**

**(i) How much time should elapse before approaching Ombudsman from the date of written representation ?**

**(ii) State the grounds and the procedure for filing a complaint before Ombudsman.**

**(iii) Whether Prateek can hire services of a legal practitioner to plead his case before Ombudsman ? (8 marks)**

**Answer 4(a) (i)** As per the SEBI (Ombudsman) Regulations, 2003, if a complainant had not received any reply within a period of 1 month after the listed company or intermediary concerned received his representation or the complainant is not satisfied with the reply given to him by the listed company or an intermediary, he/she can approach to the Ombudsman.

**(ii) Grounds of Complaint**

A person may lodge a complaint on any one or more of the following grounds either to SEBI or to the Ombudsman concerned:

- Non-receipt of refund order, allotment letter in respect of a public issue of securities of companies are units of mutual funds or collective investment schemes;
- Non-receipt of share certificates, unit certificate, debenture certificates, bonus shares;
- Non-receipt of dividend by shareholders or unit-holders;
- Non-receipt of interest on debentures, redemption amount of debentures or interest on delayed payment of interest on debentures;
- Non-receipt of interest on delayed refund of application monies;
- Non-receipt of annual reports or statements pertaining to the portfolios;
- Non-receipt of redemption amount from a mutual fund or return from collective investment scheme;
- Non-transfer of securities by an issuer company, mutual fund, collective investment management company or depository within the stipulated time;
- Non-receipt of letter of offer or consideration in takeover or buy back offer or delisting;
- Non-receipt of statement of holding corporate benefits or any grievances in respect of Corporate benefits, etc;
- Any grievance in respect of public, rights or bonus issue of a listed company;
- Any of the matters covered under section 24 of the Companies Act, 2013;
- Any grievance in respect of issue or dealing in securities against an intermediary or a listed company.

**Procedure of Filing Complaint:**

Any person who has a grievance against a listed company or an intermediary relating to any of the matters specified in regulation 13 may himself or through his authorised representative or any investors association recognised by SEBI, make a complaint against a listed company or an intermediary to the Ombudsman within whose jurisdiction the registered or corporate office of such listed company or intermediary is located.

However, if SEBI has not notified any Ombudsman for a particular locality or territorial jurisdiction, the complainant may request the Ombudsman located at the Head Office of SEBI for forwarding his complaint to the Ombudsman of competent jurisdiction.

The complaint shall be in writing duly signed by the complainant or his authorised representative (not being a legal practitioner) in the Form specified in the Schedule to these regulations and supported by documents, if any.

(iii) As per regulation 19 (3) of the SEBI (Ombudsman) Regulations, 2003, no legal practitioner shall be permitted to represent the defendants or respondents at the proceedings before the Ombudsman except where a legal practitioner has been permitted to represent the complainants by the Ombudsman. In this given case, as Prateek is the petitioner, hence he can hire the services of the legal practitioner.

### **December 2020**

**1) An Ombudsman has issued an award in a complaint proceeding to your Company. Aggrieved by the award of Ombudsman, directors of your company have decided to file petition before the SEBI. As a company secretary, advise the Board of directors of your company regarding provisions and procedures to be adopted for filing such petition under the SEBI (Ombudsman) Regulations, 2003. (8 marks)**

**Solution:** SEBI (Ombudsman) Regulations, 2003 provides that in case the matter is not resolved by mutually acceptable agreement within a period of one month of the receipt of the complaint or such extended period as may be permitted by the Ombudsman, he may, based upon the material placed before him and after giving opportunity of being heard to the parties, give his award in writing or pass any other directions or orders as he may consider appropriate. Such award shall be made within a period of three months from the date of the filing of the complaint. The Ombudsman should send his award to the parties to the adjudication to perform their obligations under the award.

An award given by the Ombudsman shall be final and binding on the parties and persons claiming under them respectively. Any party aggrieved by the award on adjudication may file a petition before SEBI within one month from the receipt of the award or corrected award setting out the grounds for review of the award.

The SEBI may review the award if there is substantial mis-carriage of justice, or there is an error apparent on the face of the award. Where a petition for review of the award, such petition shall not be entertained by the SEBI unless the party filing the petition has deposited with SEBI seventy-five percent of the amount mentioned in the award. The SEBI may review the award and pass such order as it may deem appropriate, within a period of forty five days of the filing of the petition for review.

## **June 2021**

**1) Audit committee may grant omnibus approval for related party transactions.” Elucidate the statement. (5 marks)**

**Solution:** Yes, the Audit Committee may grant omnibus approval for related party transactions proposed to be entered into by the listed entity subject to the following conditions :

- a) the Audit Committee shall lay down the criteria for granting the omnibus approval in line with the policy on related party transactions of the listed entity and such approval shall be applicable in respect of transactions which are repetitive in nature;
- b) the Audit Committee shall satisfy itself regarding the need for such omnibus approval and that such approval is in the interest of the listed entity;
- c) the omnibus approval shall specify:
  - (i) the name(s) of the related party, nature of transaction, period of transaction, maximum amount of transactions that shall be entered into;

- (i) the indicative base price / current contracted price and the formula for variation in the price if any; and

- (ii) such other conditions as the audit committee may deem fit.

However, where the need for related party transaction cannot be foreseen and aforesaid details are not available, Audit Committee may grant omnibus approval for such transactions subject to their value not exceeding rupees one crore per transaction.

- d) the Audit Committee shall review, at least on a quarterly basis, the details of related party transactions entered into by the listed entity pursuant to each of the omnibus approvals given;

- e) such omnibus approvals shall be valid for a period not exceeding one year and shall require fresh approvals after the expiry of one year.

## **December 2021**

**1) In the proceedings before the Ombudsman under SEBI regulations, strict rules of evidence under the Indian Evidence Act shall apply”. Comment on the statement. Enumerate the particulars to be display by the company with regards to Ombudsman.**

**Solution:** In proceedings before the Ombudsman strict rules of evidence under the Indian Evidence Act shall not apply and the Ombudsman may determine his own procedure consistent with the principles of natural justice. Ombudsman shall decide whether to hold oral hearings for the presentation of evidence or for oral argument or whether the proceeding shall be conducted on the basis of documents and other materials.

However, it shall not be necessary for an investor to be present at the oral hearing of proceedings under these regulations and the Ombudsman may proceed on the basis of the documentary evidence submitted before him.

Display of the Particulars of the Ombudsman

Every listed company or intermediary is required to display the name and address of the Ombudsman as specified by SEBI to whom the complaints are to be made by any aggrieved person in its office premises in such manner and at such place, so that it is put to notice of the shareholders or investors or unit holders visiting the office premises of the listed company or intermediary. The listed company or intermediary is required to give full disclosure about the grievance redressal mechanism through Ombudsman in its offer document or client agreement. Any failure to disclose the grievance redressal mechanism through Ombudsman or any failure to display the particulars would attract the penal provisions contained in Section 15 A of SEBI Act.

2) Sarvbhom Ltd. issued 2000 equity shares of ₹100 each on 1st May, 2019. The amount payable was ₹30 on application and ₹70 on allotment of shares. The company had received applications for 3000 equity shares and shares were allotted on pro-rata basis on 31st August, 2019. Dakshin, had applied for 120 shares on 15th May, 2019. The excess application money was refunded to him on 29th February, 2020.

(i) Can Dakshin lodge the complaint to Ombudsman for interest on delayed refund of application money ?

(ii) What is the procedure for filing a complaint ?

(iii) What is the duration for making the complaint to Ombudsman ?

**Solution:** As per SEBI (Ombudsman) Regulations, 2003, Dakshin can lodge complaint for non-receipt of interest on delayed refund of application monies.

**Answer 3(b)(ii)**

Procedure for filing a complaint

Any person who has a grievance against a listed company or an intermediary relating to any of the matters specified under the SEBI (Ombudsman) Regulations, 2003 may himself or through his authorised representative or any investors association recognised by the SEBI, make a complaint against a listed company or an intermediary to the Ombudsman within whose jurisdiction the registered or corporate office of such listed company or intermediary is located. If SEBI has not notified any Ombudsman for a particular locality or territorial jurisdiction, the complainant may request the Ombudsman located at the Head Office of the SEBI for forwarding his complaint to the Ombudsman of competent jurisdiction.

The complaint is required to be in writing duly signed by the complainant or his authorised representative (not being a legal practitioner) in the Form specified in the Schedule to the regulations and supported by documents, if any.

The Ombudsman may dismiss a complaint on any of the grounds specified under the Regulations or when such complaint is frivolous in his opinion.

**Answer 3(b)(iii)**

Duration for making the complaint to Ombudsman

The SEBI (Ombudsman) Regulations, 2003 prescribes that no complaint to the Ombudsman shall lie –

(a) unless the complainant had, before making a complaint to the SEBI or the Ombudsman concerned, made a written representation to the listed company or the intermediary named in the complaint and the listed company or the intermediary, as the case may be, had rejected the complaint or the complainant had not received any reply within a period of one month after the listed company or intermediary concerned received his representation or the complainant is not satisfied with the reply given to him by the listed company or an intermediary;

(b) unless the complaint is made within six months from the date of the receipt of communication of rejection of his complaint by the complainant or within seven months after the receipt of complaint by the listed company or intermediary under clause (a) above.

## CHAPTER 15 – STRUCTURE OF CAPITAL MARKET (PRIMARY & SECONDARY MARKET)

**June 2023**

1. (i) What are Currency Futures ? 15

(ii) R purchases the following European Call option of Emkey Tech Ltd. and European Put option of Giganet Ltd. What decision he would take on expiry, if the share price of Emkey closes at ₹ 1100 and Giganet closes at ₹ 590 in the following circumstances ? (Ignore any premium paid).

(a) Emkey : 1050 Call

(b) Giganet : 525 Put

(c) Emkey : 1120 Call

Giganet : 580 Put

**Ans –**

(i) A currency future, also known as Forex future, is a future contract to exchange one currency for another at a specified date in the future at a price (exchange rate) that is fixed on the purchase date. Generally, the price of a future contract is in term of INR per unit of other currency e.g. US Dollar. Currency future contracts allow investors to hedge against foreign exchange risk.

(ii) Mr. R has purchased European options. He can exercise them only on expiry.

He would exercise a call option only if the share price ( $S = 1100$ ) is greater than the strike price. It should be noted that the call options are right to buy the underlying, therefore he would act as under:

Exercise Emkey @ 1050 call ( $1100 > 1050$ ), by doing so, he makes a gain of ₹ 50.

Not exercise Emkey @ 1120 Call ( $1100 < 1120$ ). This is because he can buy stocks cheaper at ₹ 1100 in the market rather than exercising at ₹ 1120.

He would exercise a put option only if the stock price ( $S=590$ ) is less than the strike Price. It is the right to sell the underlying. Therefore, he would act as under:

Not exercise Giganet @ 525 Put ( $590 > 525$ ) Not exercise Giganet @ 580 Put ( $590 > 580$ )

This is because he can sell stocks at a higher rate of ₹ 590 in the market rather than exercising the puts at lower rates.

2. What is Inflation rate ? How to calculate it ? M bought his morning coffee for ₹ 12 in 2019, but now he is paying ₹ 16 in 2023. Calculate the inflation rate.

**Ans -** Inflation is a rise in prices, which can be translated as the decline of purchasing power over time. Inflation rate is the measure of the increase or rate of increase in the general price of selected goods and services over a determined period. Inflation can indicate a decline in the purchasing power or value of a nation's currency and is typically recorded and reported as a percentage.

Inflation rate is important because as the average cost of items increases, currency loses value as it takes more and more funds to acquire the same goods and services as before. This fluctuation in the value of any currency impacts the cost of living and the economy.

Calculation of Inflation Rate:

Inflation Rate Formula:  $(B - A)/A \times 100$

Where, A is the price paid in the previous year/ earlier year and B is the price paid in the current year/later year.

In the given situation, M bought his morning coffee for ₹12 in 2019 and now he is paying ₹ 16 in 2023.

Inflation Rate =  $(₹ 16 - ₹12)/ ₹12 \times 100$   
= 33.33%

Therefore, the inflation rate for M's cup of coffee in the year 2023 is 33.33% comparing the price which M had paid in the year 2019.

### 3. Currency Derivatives

**Ans - Currency Derivatives**

Currency derivatives are financial contracts between the buyer and seller involving the exchange of two currencies at a future date, and at a stipulated rate. Currency Derivative trading is similar to Stock Futures and Options trading. However, the underlying asset are currency pairs (such as USDINR or EURINR) instead of stocks. Currency Options and Currency Futures trading is done in the Foreign Exchange markets. Forex rates are the value of a foreign currency relative to domestic currency. The major participants of Currency trading in India are banks, corporations, exporters and importers. In August 2008, SEBI permitted Exchange traded Currency Derivatives on the Indices. The clearing of the currency derivatives market should be done by an independent Clearing Corporation, which satisfies the eligibility for a clearing corporation.

### 4. Angel Fund

**Ans - Angel fund**

Angel fund refers to money pool created by high net worth individuals or companies (generally known as

Angel Investors), for investing in start-up business. It is defined in the SEBI (Alternative Investment Funds) Regulations 2012 which means a sub-category of Venture Capital Fund under Category I- Alternative

Investment Fund that raises funds from angel investors and invests in accordance with regulations as specified by SEBI.

Angel Investors provide capital for a business start-up, usually in exchange for convertible debt or ownership equity. A small but increasing number of angel investors invest online through equity / debt funding or organize themselves into angel groups or angel networks to share research and pool their investment capital, as well as to provide advice to their portfolio companies.

Angel investments are typically the earliest equity investments made in start-up companies. They commonly band together in investor networks. Often these networks are based on regional, industry investor or academic affiliation. Angel Investors are often former entrepreneurs themselves, and typically enjoy working with companies at the earliest stages of business formation.

The effective Angels help entrepreneurs to shape business models, create business plans and connect to resources - but without stepping into a controlling or operating role. Often Angels are entrepreneurs who have successfully built companies, or have spent a part of their career in coaching young companies.

## 5. Block Deal

### Ans – Block Deal

In order to facilitate execution of large trades, the stock exchanges are permitted to provide a separate trading window. A trade executed on this separate trading window is termed as 'block deal'. SEBI introduced a new block window mechanism for the block trades from January 01, 2018. A trade, with a minimum quantity of 5,00,000 shares or minimum value of Rs.5 crore executed through a single transaction on this separate window of the stock exchange will constitute a "block deal".

- **Session Timings:**

- Morning Block Deal Window: The window shall operate between 08.45 AM to 09.00 AM

- Afternoon Block Deal Window: This window shall operate between 02:05 PM to 2.20 PM

- In the block deal the minimum order size for execution of trades in the Block deal window shall be Rs.10 Crore.

- The orders placed shall be within  $\pm 1\%$  of the applicable reference price in the respective windows as stated above.

- The stock exchanges disseminates the information on block deals such as the name of the scrip, name of the client, quantity of shares bought/sold, traded price, etc to the general public on the same day, after the market hours.

## 6. Municipal Bonds

### Ans - Municipal Bonds

Municipal bonds are also referred to as "muni bonds". In terms of SEBI regulations, municipal bonds can be issued by any Municipality or any Statutory Body or Board or Corporation, Authority, Trust or Agency established or notified by any Central or State Act or any Special Purpose Vehicle notified by the State Government or Central Government subject to the condition that it undertakes one or more functions that may be entrusted under Article 243W of the Constitution of India. A municipality means an institution of self-government constituted under Article 243Q of the Constitution of India.

Municipal bonds are issued when a government body wants to raise funds for projects such as infra-related, roads, airports, railway stations, schools and so on.

SEBI issued regulations in 2015 for the urban local bodies to raise funds by issuing municipal bonds. Municipal bonds exist in India since the year 1997. Bangalore Municipal Corporation was the first urban local body to issue municipal bonds in India. Ahmedabad followed Bangalore in the succeeding years. The municipal bonds lost the ground after the initial investors' attraction it received and failed to raise the desired amount of funds. To revive the municipal bonds, SEBI came up with regulations for the issue of municipal bonds in 2015.

A Municipality should meet the following eligibility criteria to issue municipal bonds in India:

- The issuer must not have a negative net worth in each of the three previous years.
- The issuer must have no default in the repayment of debt securities and loans availed from the banks or non-banking financial companies in the last year.
- The issuer, promoter and directors must not be named in the list of the wilful defaulters.

**7. An investor can invest in real estate without buying any physical property by way of investment in Real Estate Investment Trusts (REITs). Explain REITs and its benefits**

**Ans –**

A real estate investment trust (REIT) is a collective investment scheme that owns, operates or finances income-producing real estate. REITs provide all investors the chance to own valuable real estate, present the opportunity to access dividend-based income and total returns, and help communities grow, thrive, and revitalize.

REITs allow anyone to invest in portfolios of real estate assets the same way they invest in other industries through the purchase of individual company stock or through a mutual fund or exchange traded fund (ETF). The stockholders of a REIT earn a share of the income produced through real estate investment without buying any finance property.

REITs are similar to mutual funds and shares and they provide income by way of dividend to its shareholders and capital appreciation as REIT stocks are listed in BSE and NSE.

Benefits of REITs include

- **Less Capital Intensive:** Direct investment in real estate property is very capital intensive. But each shares of REITs will be comparatively more affordable. (it will not require large capital outflows)
- **Suitable for small Investors:** Investing through REITs will eliminate dealing with builders, thereby avoiding potential exposure to big builders.
- **Transparency:** REITs stocks are listed in stock market, hence details will be available on public domain.
- **Assured Dividends:** REITs generates income in form of dividend. REITs dividend payment is relatively assured as most of their income is in the form of rental (lease) income.
- **Tax Free:** Dividend earned by the investors of REIT will be tax free.
- **Fast Capital Appreciation:** Capital appreciation can be phenomenal.
- **Easy to buy:** investment in REITS easier than investment in Real Estate properties.

**8. Roshivee wants to invest in the share of blue chip companies. However, due to the expected outbreak of war between two countries, an investment advisor suggested him to invest through option contract. He expects that the price of shares will go down in near future.**

**(a) What option contract (put or call option) he should buy?**

**(b) If the present futures contract of Maxwell Ltd. are traded at ₹ 100 and put option involves, a cost of 1.5% (one and a half) based on the strike price. During the month, the war was declared and the price of the share went down to ₹ 97. What will be the gain or loss on ₹ 1, 50,000 option contracts?**

**Ans -**

a) To protect against downward movement of share price, he should buy the put option.

(b) Gain on option:  $= (1.00 - 0.97) * ₹ 1, 50,000 = ₹ 4,500$

Premium paid = 1.5% of ₹ 1, 50,000 = ₹ 2,250

Net gain = ₹ 4,500 — ₹ 2,250 = ₹ 2,250

**9. What is Debenture Trustee? When is the appointment of Debenture Trustee mandatory? What conditions a company has to comply for the appointment of Debenture Trustee? What is the eligibility for being a Debenture Trustee?**

**Ans –**

**Appointment of Compliance Officer by intermediaries**

An intermediary registered with SEBI shall appoint a compliance officer for monitoring the compliance by it of the requirements of the Act, rules, regulations, guidelines, circulars and orders made or issued by the SEBI or the Central Government, or the rules, regulations and byelaws of the concerned stock exchanges, or the self regulatory organisation. However, the intermediary may not appoint compliance officer if it is not carrying on the activity of the intermediary. The compliance officer shall report to the intermediary or its board of directors, in writing, of any material non-compliance by the intermediary.

“Debenture Trustee” means a trustee appointed in respect of any issue of debentures of a body corporate. Debenture Trustee is a liaison between the issuer company and the debenture holders. It acts in a fiduciary capacity for protecting the interest of debenture holders.

**Appointment of Debenture Trustee:**

As per Section 71(5) of the Companies Act, 2013, appointment of debenture trustees is mandatory if a company wants to issue prospectus or make an offer or invitation to public or its members exceeding 500 for the subscription of its debentures. Such appointment must be made before issue of debentures.

However, if the debenture issue is proposed to be listed, under the SEBI (Issue and Listing of Non- convertible Securities), 2021, a debenture trustee is required to be appointed for an issue of debentures whether privately placed or for a public issue of debentures.

**The company shall appoint debenture trustees, after complying with the following conditions:**

- Names of the debenture trustees shall be stated in letter of offer inviting subscription for debentures and also in all the subsequent notices or other communications sent to the debenture holders.
- Before appointment a written consent from the debenture trustee shall be taken and a statement to that effect shall appear in the letter of offer issued for inviting the subscription of the debentures.
- A person shall not be appointed as a debenture trustee, if he-
  - beneficially holds shares in the company;
  - is promoter, director or key managerial personnel or any other officer or an employee of the company or its holding, subsidiary or associate company;
  - is beneficially entitled to moneys which are to be paid by the company otherwise than as remuneration payable to the debenture trustee;
  - is indebted to the company, or its subsidiary or its holding or associate company or a subsidiary of such holding company;
  - has furnished any guarantee in respect of the principal debts secured by the debentures or interest thereon;
  - has any pecuniary relationship with the company amounting to two per cent. or more of its gross turnover or total income or fifty lakh rupees or such higher amount as may be prescribed, whichever is lower, during the two immediately preceding financial years or during the current financial year;
  - is relative of any promoter or any person who is in the employment of the company as director or key managerial personnel.
- The Board may fill any casual vacancy in the office of the trustee but while any such vacancy continues, the remaining trustee may act. When such vacancy is caused by the resignation of the debenture trustee, the vacancy shall only be filled with the written consent of the majority of the debenture holders.

- Any debenture trustee may be removed from office before the expiry of his term only if it is approved by the holders of not less than 3/4th (75%) in value of the debentures outstanding, at their meeting.

**Eligibility for being debenture trustee:**

The capital adequacy requirement for registration as Debenture Trustee, as specified under the SEBI (Debenture Trustees) Regulations, 1993, shall not be less than the net worth of Rs. 10 crore. Further, as per regulation 7, only following persons are entitled to act as a debenture trustee, after obtaining necessary registration from SEBI:

- A scheduled bank carrying on commercial activity; or
- A public financial institution; or
- An insurance company; or
- Body corporate.

**June 2022**

**(a) The facility of Application Supported by Blocked Amount (ASBA) introduced to protect the interest of investors for faster refund. SEBI has provided additional channels for making subscription and/or call money in respect of partly paid specified securities. Explain.**

**Ans-**

Application Supported by Blocked Amount (ASBA) is an application by an investor containing an authorization to Self-Certified Syndicate Bank (SCSB) to block the application money in the bank account, for subscribing to an issue. If an investor is applying through ASBA, his application money shall be debited from the bank account only if his/her application is selected for allotment after the basis of allotment is finalized.

SEBI, in its endeavour to protect investors' interest and reduce investor grievances relating to refund, introduced ASBA as the sole payment mechanism in the IPO and Rights issues. Considering that payment through ASBA mechanism is investor friendly and enables faster completion of the process, it has been decided by the SEBI vide its circular dated 8th December, 2020 to introduce additional payment mechanism (i.e. ASBA, etc.) for making subscription and/or payment of calls in respect of partly paid specified securities through self-certified syndicate banks (SCSBs) and intermediaries such as Trading Members/ Brokers - having three in one type account and Registrar and Transfer agents (RTA).

For the purpose of making payment of balance money for calls in respect of partly paid specified securities, the additional channels are tabulated below:

<b>Channel I</b>	<b>Channel II</b>	<b>Channel III</b>
Online ASBA : Through an online portal of the SCSB. The SCSBs shall send the application to RTA and block funds in shareholders account	Physical ASBA : Physically at the branch of a SCSB. The SCSBs shall send application to RTA and block funds in shareholders account.	Additional Online mode : using the facility of linked online trading, demat and bank account (3-in-1 type accounts), provided by some of the brokers.

The payment period for payment of balance money in Calls shall be kept open for fifteen days

(b) Eknath, a risk averse investor is planning to take advantage of market rumour that in the upcoming budget, the Government is likely to announce some economic package including production linked incentive (PLI) scheme for auto industries. As he does not like to take higher risk; he purchases one call and put option contract (Lot size 1000 shares) of a leading auto component manufacturing company at a premium of ₹ 5 and ₹ 4 respectively with strike price of ₹105. In the budget, no PLI scheme was declared and the price of stock fell to ₹90.

(1) Ascertain the net loss/profit.

(2) What would be your answer, if the stock price escalates to ₹120 as Government slashed GST rate on vehicles ?

**Ans-**

If price of stock fell to ₹90

$$\begin{aligned} \text{Cost of Call Option} &= (\text{₹ } 5 \text{ per share}) \times (1000 \text{ shares i.e. lot of call option}) \\ &= \text{₹ } 5000 \end{aligned}$$

$$\begin{aligned} \text{Cost of Put option} &= (\text{₹ } 4 \text{ per share}) \times (1000 \text{ shares i.e. lot of put option}) \\ &= \text{₹ } 4000 \end{aligned}$$

$$\text{Total premium paid} = \text{₹ } 5000 + \text{₹ } 4000 = \text{₹ } 9000$$

The price of the stock fell to ₹90. The market price is lower than the strike price, the investor will lose the call premium and gain in put option. Eknath has a right to sell 1000 shares at ₹105, the price of which is ₹90. By exercising put option, Eknath will earn ₹105 - ₹90 = ₹15 per share (lot of 1000 shares in put option).

$$\begin{aligned} \text{Net Profit} &= \text{profit on put} - \text{Cost/loss on premium paid on call \& put option} \\ &= (\text{₹ } 15 \text{ per share on put} \times 1000 \text{ shares}) - \text{₹ } 9000 \\ &= \text{₹ } 15000 - \text{₹ } 9000 \\ &= \text{₹ } 6000/- \end{aligned}$$

If price of stock escalates to ₹120

The total premium paid is same as in 1st case i.e. ₹9000

The investor will now lose in put option and gain in call option. By exercising call option, Eknath will earn ₹120 - ₹105 = ₹15 per share. (lot of 1000 shares in call option).

$$\begin{aligned} \text{Net Profit} &= \text{Profit on call} - \text{Cost/loss on premium paid on call \& put option} \\ &= (\text{₹ } 15 \text{ per share on call} \times 1000 \text{ shares}) - \text{₹ } 9000 \\ &= \text{₹ } 15000 - \text{₹ } 9000 \\ &= \text{₹ } 6000/- \end{aligned}$$

In both the scenario, the net profit will remain the same

**(c) Repo and Reverse repo rate**

**Ans-**

**Repo Rate** : The rate at which the Commercial Banks borrow money from RBI. Reduction in Repo Rate helps the Commercial Banks to get money at a cheaper rate and an Increase in Repo Rate discourages the Commercial Banks to get money as the rate increases and becomes expensive. The increase in the Repo Rate will increase the cost of borrowing and lending of the banks which will discourage the public to borrow money and encourages them to deposit.

**Reverse Repo Rate (RRR)** : The rate at which the RBI borrows money from the Commercial Banks. An increase in the reverse repo rate will decrease the money supply and vice-versa, other things remaining constant. An increase in Reverse Repo Rate means that Commercial Banks will get more incentives to park their funds with the RBI, therefore decreasing the supply of money in market. An increase in the Repo Rate and the Reverse Repo Rate indicates strengthening of RBI's Monetary Policy

**(d) Post Trade Surveillance**

**Ans-**

**Post Trade Surveillance**

It is one of the category of market surveillance which plays a vital role in ensuring market integrity, which is the core objective of regulators. It includes following:

- End of day alert – Alerts generated using statistical tools. The tool highlights stocks which have behaved abnormally from its past behaviour.
- Pattern recognition model - Models designed using high end tools and trading patterns which itself identifies suspects involving in unfair trading practice.

Transaction alerts for member - As part of surveillance obligation of member the alerts are downloaded to members under 14 different heads

**(e) SARAL Account Opening**

**Ans-**

**SARAL Account Opening**

SEBI vide circular dated 4th March, 2015 provided for SARAL account opening for resident individuals. An individual investors can open a trading account and demat account by filling up a simplified Account Opening Form (AOF") termed as 'SARAL AOF' and will also have the option to obtain other facilities, whenever they require, on furnishing of additional information as per prescribed regulations/circulars.

For a set of individual investors, it has been decided by the SEBI to simplify the requirement of submission of 'proof of address'. The requirement of submission of proof of address is as follows:

- (i) Individual investor may submit only one documentary proof of address (either residence/correspondence or permanent) while opening a trading account and /or demat account or while undergoing updation.
- (ii) In case the proof of address furnished by the said investor is not the address where the investor is currently residing the intermediary may take a declaration of the residence/correspondence address on which all correspondence will be made by the

intermediary with the investor. No proof is required to be submitted for such correspondence/residence address.

In the event of change of address due to relocation or any other reason, investor may intimate the new address for correspondence to the intermediary within two weeks of such a change. The residence/ correspondence address and any such change thereof may be verified by the intermediary through positive confirmations such as (i) acknowledgment of receipt Welcome Kit/ dispatch of contract notes/any periodical statement, etc. (ii) telephonic conversation; (iii) visits, etc

**(f) Alternative Investment Fund**

**Ans-**

**Alternative Investment Fund**

Alternative investment funds (AIFs) are defined in Regulation 2(1)(b) of the SEBI (Alternative Investment Funds) Regulations, 2012. It refers to any privately pooled investment fund, (whether from Indian or foreign sources), in the form of a trust or a company or a body corporate or a Limited Liability Partnership (LLP) which are not presently covered by any Regulation of SEBI governing fund management (like, Regulations governing Mutual Fund or Collective Investment Scheme) nor coming under the direct regulation of any other sectoral regulators in India-IRDA, PFRDA, RBI. Hence, in India, AIFs are private funds which are otherwise not coming under the jurisdiction of any regulatory agency in India.

According to SEBI (AIF) Regulations, 2012, "Alternative Investment Fund means any fund established or in operated in India in the form of a trust or a company or a limited liability partnership or a body corporate which,

- (1) is a privately pooled investment vehicle which collects funds from investors,
- (2) whether Indian or foreign, for investing it in accordance with a defined investment policy for the benefit of its investors; and is not covered under the SEBI (Mutual Funds) Regulations, 1996, SEBI (Collective Investment Schemes) Regulations, 1999 or any other regulations of SEBI to regulate fund management activities

**(g) Define derivative. Explain about Currency derivatives and Commodity derivatives.**

**Ans-**

**Derivative**

A derivative is a financial instrument that derives its value from an underlying asset. This underlying asset can be stocks, bonds, currency, commodities, metals and even intangible, assets like stock indices. Derivatives can be of different types like futures, options, swaps, caps, floor, collars etc. The most popular derivative instruments are futures and options.

Derivative includes: -

- a) a security derived from a debt instrument, share, loan, whether secured or unsecured, risk instrument or contract for differences or any other form of security;
- b) a contract which derives its value from the prices, or index of prices, of underlying securities;
- c) commodity derivatives; and

d) such other instruments as may be declared by the Central Government to be derivatives.

### **Currency Derivatives**

Currency derivatives are financial contracts between the buyer and seller involving the exchange of two currencies at a future date, and at a stipulated rate. Currency Derivative trading is similar to Stock Futures and Options trading. However, the underlying asset are currency pairs (such as USDINR or EURINR) instead of Stocks. Currency Options and Currency Futures trading is done in the Foreign Exchange markets. Forex rates are the value of a foreign currency relative to domestic currency. The major participants of Currency Trading in India are banks, corporations, exporters and importers.

Benefits of currency derivatives include:

- Diversification of investments
- Easy investment in currencies
- Hedging opportunity to importers & exporters
- Trading opportunity due to volatility in currency
- Exchange-traded and hence systematically regulated
- Provides transparent rates

### **Commodity Derivatives**

Commodity is a physical good attributable to a natural resource that is tradable and supplied without substantial differentiation by the general public. Commodities trade in physical (spot) markets and in futures and forward markets. Spot markets involve the physical transfer of goods between buyers and sellers; prices in these markets reflect current (or very near term) supply and demand conditions.

Commodity derivatives are financial instruments whose value is based on underlying commodities, such as oil, gas, metals, agricultural products and minerals. Other assets such as emissions trading credits, freight rates and even the weather can also underlie commodity derivatives.

Commodity Derivatives markets are a good source of critical information and indicator of market sentiments. Since, commodities are frequently used as input in the production of goods or services, uncertainty and volatility in commodity prices and raw materials makes the business environment erratic, unpredictable and subject to unforeseeable risks.

Volatility in raw material costs affects businesses and can be significant given that commodity prices are driven by supply and demand from domestics as well as global markets. Ability to manage or mitigate risks by using suitable hedging in commodity derivative products, can positively affect business performance

**(h) How can UPI as a payment option be used in the public issue ? .**

**Ans-**

**Unified Payments Interface (UPI)** is an instant payment system developed by the National Payments Corporation of India (NPCI), an RBI regulated entity. UPI is built over the IMPS (Immediate Payment Service) infrastructure and allows you to instantly transfer money between any two parties' bank accounts. UPI as a payment mechanism is available for all public issues for which Red Herring prospectus is filed after 1st January, 2019.

UPI as a payment option can be used in the public issue process in following ways:

1. UPI as part of bidding :

- Investor will fill in the bid details in the application form as per the existing process along with his UPI ID.

- As per the existing process, investor may submit the application with any of the intermediary (Syndicate Member / Registered Stock Brokers / Registrar and Transfer Agents / Depository Participants), who, on receipt of application will upload the bid details along with UPI id in the stock exchange bidding platform.

- The stock exchange will electronically share the bid details, along with investors UPI id, with the Escrow/ Sponsor Bank appointed by the issuer company.

2. UPI as part of blocking :

- The Escrow / Sponsor Bank will initiate a mandate request on the investor i.e. request the investor to authorize blocking of funds equivalent to applicant amount and subsequent debit of funds in case of allotment.

- The request raised by the Escrow/Sponsor Bank, would be electronically received by the investor as SMS/intimation on his / her bank provided mobile no. linked to UPI ID.

- Upon validation of block request by the investor, the said information would be electronically received by the investors' bank, where the funds, equivalent to application amount, would get blocked in investors account. Intimation regarding confirmation of such block of funds in investors account would also be received by the investor.

3. UPI as part of payment for shares post allocation process :

- The registrar to the issue, based on information of bidding and blocking received from stock exchange, would undertake reconciliation and prepare the basis of allotment.

- Upon approval of such basis the instructions would be sent to sponsor bank to initiate process for credit of funds in the public issue escrow account and unblocking excess money.

Based on authorization given by investor using UPI PIN at the time of blocking, the funds, equivalent to the allotment, would be debited from investors account and remaining funds, if any, would be unblocked

**(i) What is FED policy ? How does a change in US Fed rate can impact India ?**

**Ans-**

### **FED POLICY**

The Federal Reserve System is the central bank of the United States. It performs five general functions to promote the effective operation of the U.S. economy and, more generally, the public interest. The Federal Reserve:

- conducts the nation's monetary policy to promote maximum employment, stable prices, and moderate long-term interest rates in the U.S. economy;
- promotes the stability of the financial system and seeks to minimize and contain systemic risks through active monitoring and engagement in the U.S. and abroad;
- promotes the safety and soundness of individual financial institutions and monitors their impact on the financial system as a whole;
- fosters payment and settlement system safety and efficiency through

services to the banking industry and the U.S. government that facilitate U.S.-dollar transactions and payments; and

- promotes consumer protection and community development through consumer-focused supervision and examination, research and analysis of emerging consumer issues and trends, community economic development activities, and the administration of consumer laws and regulations.

The Fed Funds Rate is the interest rate at which the top US banks borrow overnight money from common reserves. All American banks are required to park a portion of their deposits with the Federal Reserve in cash, as a statutory requirement.

Actually, fed fund rate gives the direction in which US interest rates should be heading at any given point of time. If the Fed is increasing the interest rates, lending rates for companies and retail borrowers will go up and vice versa. In India, hike in repo rate may not impact the countries outside India. On the other hand, US interest rates matter a lot to global capital flows. Some of the world's richest institutions and investors have their base in USA. They constantly compare Fed rates with interest rates across the world to make their allocation decisions.

In the globalised world, markets are connected. An increase in Fed rates will be negative in general for the US stock market and if it leads to another round of sell-offs, it will also have ripple effects on the Indian market.

Any changes in the Fed Fund Rates impact the domestic borrowing market to a large extent. For instance, if the Fed rates go up, it will make the RBI hesitant in cutting rates at that time. The reason is that if RBI cut rates it will lead to heavy pullout of foreign investors from the Indian bond market

## **DECEMBER 2019**

**5 (a) The stock market of a developing countries is normally attractive for the foreign investors.**

**A foreign endowments fund is planning to invest in equity shares of Indian companies. State the category under which this Foreign Portfolio Investor (FPI) be covered. Will your answer be different if it is a central bank of a foreign country? (5 Marks)**

**Answer 5 (a)** As per Regulation 5 of the SEBI (Foreign Portfolio Investors), Regulations, 2014, an applicant shall seek registration as a foreign portfolio investor in one of the categories mentioned under the regulations or any other category as may be specified by the SEBI from time to time.

The foreign endowments fund will be covered under category III. This category includes foreign portfolio investor which shall include all others not eligible under Category I and II foreign portfolio investors such as endowments, charitable societies, charitable trusts, foundations, corporate bodies, trusts, individuals and family offices.

Yes, if it is central bank of a foreign country, this will include in Category – I. The Category – I includes foreign portfolio investor which includes Government and Government related investors such as central banks, Governmental agencies, sovereign wealth funds and international or multilateral organizations or agencies.

**5 (b) What is Unified Payments Interface (UPI) ? How is public issue application using UPI different from public issue application using ASBA submitted with intermediaries ? Explain. (5 Marks)**

**Answer 5 (b)** Unified Payments Interface (UPI)

UPI is an instant payment system developed by the National Payments Corporation of India (NPCI), an RBI regulated entity. UPI is built over the IMPS (Immediate Payment Service) infrastructure and allows you to instantly transfer money between any two parties' bank accounts. UPI as a payment mechanism is available for all public issues for which Red Herring Prospectus is filed after January 01, 2019.

Public issue application using UPI is a step towards digitizing the offline processes involved in the application process by moving the same online. This requires you to have to create a UPI ID and PIN using any of the UPI enabled mobile application. The UPI ID can be used for blocking of funds and making payment in the public issue process. One can accept the request to block the funds for the amount they have bid by entering their UPI PIN in the mobile application. The money shall be blocked and shall be automatically remitted to the Escrow Bank, in case of allotment. UPI in public issue process shall essentially bring in comfort, ease of use and reduce the listing time for public issues.

The limit for Initial Public Offer (IPO) application is 2 Lakhs per transaction on UPI. Only retail individual investors are allowed to use UPI for payment in public issues.

Qualified Institutional Buyers and High Net-worth Individuals shall continue to apply as per the existing process.

**5 (c) Z holding equity shares in PQR Ltd. made a request to the company to issue shares with differential voting rights. Enumerate the conditions if any to be satisfied by the PQR Ltd. for issue of shares with differential voting rights to Z. (5 Marks)**

**Answer 5 (c)** Share Capital with Differential Voting Rights (DVRs)

Section 43(a)(ii) of the Companies Act, 2013, authorized equity share capital with differential rights as to dividend, voting or otherwise in accordance with rule 4 of Companies (Share Capital and Debentures) Rules, 2014 which prescribes the following conditions for issue of DVRs:

- (a) the articles of association of the company authorizes the issue of shares with differential rights;
- (b) the issue of shares is authorized by ordinary resolution passed at a general meeting of the shareholders. Where the equity shares of a company are listed on a recognized stock exchange, the issue of such shares shall be approved by the shareholders through postal ballot at a general meeting;
- (c) the shares with differential rights shall not exceed twenty-six percent of the total post-issue paid up equity share capital including equity shares with differential rights issued at any point of time;
- (d) the company having consistent track record of distributable profit for the last three years;

(e) the company has not defaulted in filing financial statements and annual returns for three financial years immediately preceding the financial year in which it is decided to issue such shares;

(f) the company has no subsisting default in the payment of a declared dividend to its shareholders or repayment of its matured deposits or redemption of its preference shares or debentures that have become due for redemption or payment of interest on such deposits or debentures or payment of dividend;

(g) the company has not defaulted in payment of the dividend on preference shares or repayment of any term loan from a public financial institution or state level financial institution or scheduled bank that has become repayable or interest payable thereon or dues with respect to statutory payments relating to its employees to any authority or default in crediting the amount in Investor Education and Protection Fund to the Central Government.

However, a company may issue equity shares with differential rights upon expiry of five years from the end of the financial year in which such default was made good.

(h) the company has not been penalized by Court or Tribunal during the last three years of any offence under the Reserve Bank of India Act, 1934, Securities and Exchange Board of India Act, 1992, Securities Contracts (Regulation) Act, 1956, the Foreign Exchange Management Act, 1999 or any other special Act under which such companies being regulated by sectoral regulators.

(i) The explanatory statement to be annexed to the notice of the general meeting in pursuance of section 102 or of a postal ballot in pursuance of section 110 of the Companies Act, 2013 shall contain the disclosures as mentioned in the rules.

(j) The company shall not convert its existing share capital with voting rights into equity share capital carrying differential voting rights and vice-versa.

(k) The Board of Directors shall disclose in the Board's Report for the financial year in which the issue of equity shares with differential rights was completed, the details as mentioned in the rules.

(l) The holders of the equity shares with differential rights shall enjoy all other rights such as bonus shares, rights shares etc., which the holders of equity shares are entitled to, subject to the differential rights with which such shares have been issued.

(m) The register of members maintained under section 88 of the Companies Act, 2013, shall contain all the relevant particulars of the shares so issued along with details of the shareholders.

Note: Following amendment has come in place of point (c) above.

“The voting power in respect of shares with differential rights of the company shall not exceed seventy four percent of total voting power including voting power in respect of equity shares with differential rights issued at any point of time.”

### **6 (a) Optionally Fully Convertible Debenture (3 Marks)**

**Answer 6 (a)** As per SEBI (Issue of Capital and Disclosure Requirements) Regulations, 2018, the “convertible security” means a security which is convertible into or exchangeable with equity shares of the issuer at a later date, with or without the option of the holder of such security and includes convertible debt instrument and convertible preference shares.

The Optionally Fully Convertible Debenture is a kind of debenture which can be converted into shares at the expiry of a certain period at a predetermined price, if the debt holder (investor) wishes to do so. The “securities” as defined u/s 2(81) of Companies Act, 2013 means securities as defined in clause (h) of section 2 of the Securities Contracts (Regulation) Act, 1956, and includes hybrids. Hence after analysing the above definitions of “OFCD”, “hybrid” and “securities” it could be rightly concluded that an OFCD being a hybrid security falls under the definition of “securities” as defined u/s 2 (h) of Securities Contract (Regulation) Act, 1956 and u/s 2(81) of Companies Act, 2013 as it inherits the characteristics of debentures initially and also that of the shares at a later stage if the option to convert the securities into shares being exercised by the security holder.

### **6 (c) Nifty (3 Marks)**

**Answer 6 (c)** National Stock Exchange’s Fifty or Nifty is the market indicator of NSE. It is a collection of 50 stocks. It is also referred to as Nifty 50. It is owned and managed by India Index Services and Products Ltd. (IISL). Nifty is calculated through the free-float market capitalization weighted method. It multiplies the Equity capital (expressed in terms of number of shares outstanding) with a price to derive the market capitalization. To determine the Free-float market capitalization, equity capital (as stated earlier) is multiplied by a price which is further multiplied with Investable Weight Factor (IWF) which is the factor for determining the number of shares available for trading freely in the market. The Index is determined on a daily basis by taking into consideration the current market value (free float market capitalization) divided by base market capital and then multiplied by the Base Index Value of 1000.

### **6 (d) Angel Fund (3 Marks)**

**Answer 6 (d)** An angel investor or angel (also known as a business angel, informal investor, angel funder, private investor, or seed investor) is an affluent individual who provides capital for a start-up business, usually in exchange for convertible debt or equity ownership. A small but increasing number of angel investors invest online through equity crowd funding or organize themselves into angel groups or angel networks to share research and pool their investment capital, as well as to provide advice to their portfolio companies.

Angel investments are typically the earliest equity investments made in start-up companies. They commonly band together in investor networks. Often these networks are based on regional, industry in investor or academic affiliation. Angel Investors are often former entrepreneurs themselves, and typically enjoy working with companies at the earliest stages of business formation. As per the SEBI (Alternative Investment Fund) Regulations, 2012, angel fund is a sub-category of venture capital. Procurement of funds from angel investors of their further investment has to be conducted as per these regulations.

The effective Angels help entrepreneurs to shape business models, create business plans and assist in arranging resources - but without stepping into a controlling or operating role. Often Angels are entrepreneurs who have successfully built companies, or have spent a part of their career in coaching young companies.

**6A (i) How does market surveillance try to ensure market integrity in the securities market ? Explain. (5 Marks)**

**Answer 6A (i)** Market surveillance plays a vital role in ensuring market integrity which is the core objective of regulators. Market integrity is achieved through combination of surveillance, inspection, investigation and enforcement of relevant laws and rules. In India, the primary responsibility of market surveillance has been entrusted to Stock exchanges and is being closely monitored by SEBI. Millions of Orders are transmitted electronically every minute and therefore surveillance mechanisms to detect any irregularities must also be equally developed. Exchanges adopt automated surveillance tools that analyse trading patterns. Market Surveillance is broadly categorised in two parts as under:

**A. Preventive Surveillance**

- Stringent on boarding norms for Trading Members - Stringent net worth, back ground, viability etc. checks while on boarding Trading Members.
- Index circuit filters - It brings coordinated trading halt in all equity and equity derivative markets at 3 stages of the index movement, either way viz., at 10%, 15% and 20% based on previous day closing index value.
- Trade Execution Range - Orders are matched and trades take place only if the trade price is within the reference price and execution range.
- Order Value Limitation - Maximum Order Value limit allowed per order.
- Cancel on logout - All outstanding orders are cancelled, if the enabled user logs out.
- Kill switch - All outstanding orders of that trading member are cancelled if trading member executes kill switch.
- Risk reduction mode - Limits beyond which orders level risk management shall be initiated instead of trade level.
- Compulsory close out - Incoming order, if it results in member crossing the margins available with the exchange, such order will be partially or fully cancelled, as the case may be, and further disallow the trading member to create fresh positions.
- Capital adequacy check - Refers to monitoring of trading member's performance and track record, stringent margin requirements, position limits based on capital, online monitoring of member positions and automatic disablement from trading when limits are breached
- Fixed Price Band / Dynamic Price band - Limits applied within which securities shall move; so that volatility is curbed orderliness is brought about. For non- derivative securities price band is 5%, 10% & 20%. For Derivative products an operating range of 10% is set and subsequently flexed based on market conditions.
- Trade for Trade Settlement - The settlement of scrip's available in this segment is done on a trade for trade basis and no netting off is allowed.
- Periodic call auction - Shifting the security from continuous to call auction method
- Rumour Verification - Any unannounced news about listed companies is tracked on online basis and letter seeking clarification is sent to the companies and the reply received is disseminated

**B. Post trade surveillance**

- End of day alert – Alerts generated using statistical tools. The tool highlights stocks which have behaved abnormally from its past behavior.
- Pattern recognition model – Models designed using high end tools and trading patterns which itself identifies suspects involving in unfair trading practice.
- Transaction alerts for member - As part of surveillance obligation of members the alerts are downloaded to members under 14 different heads.

**6A (ii) What are the key risk management measures initiated by SEBI in the secondary market ? Describe. (5 Marks)**

**Answer 6A (ii)** Some of the key risk management measures initiated by SEBI in the Secondary Market are as under:

- (a) Categorization of securities into groups 1, 2 and 3 for imposition of margins based on their liquidity and volatility.
- (b) VaR based margining system.
- (c) Specification of mark to Market margins.
- (d) Specification of Intra-day trading limits and Gross Exposure Limits.
- (e) Real time monitoring of the Intra-day trading limits and Gross Exposure Limits by the Stock Exchanges.
- (f) Specification of time limits of payment of margins.
- (g) Collection of margins on upfront basis.
- (h) Index based market wide circuit breakers.
- (i) Automatic de-activation of trading terminals in case of breach of exposure limits.
- (j) VaR based margining system has been put in place based on the categorization of stocks based on the liquidity of stocks depending on its impact cost and volatility. It addresses 99% of the risks in the market. • Additional margins have also been specified to address the balance 1% cases.
- (k) Collection of margins from institutional clients on T+1 basis.

**6A (iii) What is Pension Fund and Government Pension ? State the legislations governing pension in India.(5 Marks)**

**Answer 6A (iii)**

Pension Fund - Pension Fund means a fund established by an employer to facilitate and organize the investment of employees' retirement funds which is contributed by the employer and employees. The pension fund is a common asset pool meant to generate stable growth over the long term, and provide pensions for employees when they reach the end of their working years and commence retirement. Pension funds are commonly run by some sort of financial intermediary for the company and its employees like N.P.S. scheme is managed by UTI AMC (Retirement Solutions), although or some larger corporations operate their pension funds in-house. Pension funds control relatively large amounts of capital and represent the largest institutional investors in many nations. Pension funds play a huge role in development of the economy and it play active role in the Indian equity market. This pension fund ensures a change in their investment attitudes and in the regulatory climate, encouraging them to increase their investment levels in equities and would have a massive impact on capital market and on the economy as a whole.

Pensions broadly divided into two sectors:

A. Formal sector Pensions

B. Informal sector Pensions

Pensions in India can be divided into three categories such as pensions under an Act or Statute, Government pensions and voluntary pensions.

Government Pension - Government pensions in India are referred under the Directive Principles of State Policy and are therefore not covered under a Statute. The Government amended the regulations to put in place the new pension system. The old scheme continues for the existing employees (i.e. those who joined service prior to January 1, 2004). Pensions for government employees would include employees of the central as well as the state governments. (A) Central Government Pensions like Civil servants pensions, Defences, Railways and Posts (B) State Government Pensions, Bank pensions like Reserve Bank of India (RBI), Public Sector Banks, National Bank for Agriculture and Rural Development (NABARD) and other banks pensions.

Legislations governing pension in India

There are following three Acts for pensions in India.

1. Pensions under the Employees Provident Fund & Miscellaneous Provisions Act 1952 (EPF&MP) : These include the Employees Provident Fund, Employees Pension Scheme, and Employees Deposit Linked Insurance Scheme.

2. Pensions under the Coal mines Provident Fund & Miscellaneous Provisions Act 1948 : These include Coal mines provident fund, Coal mines pension scheme & Coal mines linked insurance scheme.

3. Gratuity under the Payment of Gratuity Act, 1972 : There are other provident funds in India like Assam Tea Plantations Provident Fund, J&K Provident Fund, and Seamens Provident Fund etc.

## **JUNE 2019**

**5 (a) What are the Option contracts? You are required to compute the profit/loss for each investors in below option contracts:**

(i) Mr. X writes a call option to purchase share at an exercise price of ₹60 for a premium of ₹12 per share. The share price rises to ₹62 by the time the option expires.

(ii) Mr. Y buys a put option at an exercise price of ₹80 for a premium of ₹8.50 per share. The share price falls to ₹60 by the time the option expires.

(iii) Mr. Z writes a put option at an exercise price of ₹80 for a premium of ₹11 per share. The price of the share rises to ₹96 by the time the option expires.

(iv) Mr. XY writes a put option with an exercise price of ₹70 for a premium of ₹8 per share. The price falls to ₹48 by the time the option expires. (5 Marks)

**Answer 5 (a)** Options Contract give its holder the right, but not the obligation, take or make delivery on or before a specified date at a stated price.

Option Contracts are classified into two types on the basis of which party has the option:

a. Call Option – A call option is with the buyer and gives the right to take delivery. The buyer of the call option has a right to buy the underlying asset from the option seller.

b. Put Option – The put option is with the seller and the option gives the right to take delivery. The buyer of the put option has a right to sell the underlying asset to the option seller.

(i)	For Mr. X : Profit	=	$[(Rs. 60 - Rs. 62) + Rs. 12] = Rs. 10$
(ii)	For Mr. Y : Profit	=	$[(Rs. 80 - Rs. 60) - Rs. 8.50] = Rs. 11.50$
(iii)	For Mr. Z : Profit	=	Rs. 11.00 (Option will not be exercised)
(iv)	For Mr. XY : Loss	=	$[(Rs. -70 + Rs. 48) + Rs. 8] = - Rs. 14$

**5 (c) "Prior information of open position of any share during market hours can easily fluctuate the price of the share". How Preventive Surveillance helps to reduce the fraudulent price variation in the shares in a day? (5 Marks)**

**Answer 5 (c)** Market Surveillance plays a vital role in ensuring market integrity which is core objective of regulators. Market integrity is achieved through combination of surveillance, inspection, investigation and enforcement of relevant laws and rules. Globally Market Surveillance is either conducted by the regulators or Exchanges or both. In India, the primary responsibility of market surveillance has been entrusted to Stock exchanges and is being closely monitored by SEBI. Market Surveillance is broadly categorized in two parts, viz. Preventive Surveillance and Post Trade Surveillance.

**Preventive Surveillance**

— Stringent on-boarding norms for Trading members – Stringent net worth, back ground, viability, etc. checks while on boarding Trading members.

— Index Circuit Filters – It brings coordinated trading halt in all equity and equity derivative markets at 3 stages of the index movement, either way viz. at 10%, 15% and 20% based on previous day closing index value.

— Trade Execution range – Orders are matched and trades take place only if the trade price is within the reference price and execution range.

- Order Value Limitation – Maximum Order Value limit allowed per order.
- Cancel on Logout – All outstanding orders are cancelled, if the enabled user logs out.
- Kill Switch – All outstanding orders of the trading member are cancelled if trading members executes kill switch.
- Risk Reduction Mode – Limits beyond which order level risk management shall be initiated instead of trade level.
- Compulsory Close out – Incoming order, if it results in members crossing the margins available with the exchange, such order will be partially or fully cancelled, as the case may be, and further disallow the trading member to create fresh positions.
- Capital Adequacy Check – Refers to monitoring of trading member's performance and track record, stringent margin requirements, position limits based on capital, online monitoring of member positions and automatic disablement from trading when limits are breached.
- Fixed Price Band / Dynamic Price band – Limits applied within which securities shall move; so that volatility is curbed, orderliness is brought about. For non- derivative securities, price band is 5%, 10% & 20%. For derivative products as operating range of 10% is set and subsequently flexed based on market conditions.
- Trade for Trade Settlement – The settlement of scrip's available in this segment is done on a trade for trade basis and netting off is allowed.
- Periodic Call Auction – Shifting the security form continuous to call auction method.
- Rumour Verification – Any unannounced news about listed companies is tracked on online basis and letter seeking clarification is sent to the companies and the reply received is disseminated.

### **6 (b) Key difference between WPI & CPI (3 Marks)**

**Answer 6 (b)** Key difference between Wholesale Price Index (WPI) & Consumer Price Index (CPI)

- i. Primary use of WPI is to have inflationary trend in the economy as a whole. However, CPI is used for adjusting income and expenditure streams for changes in the cost of living.
- ii. WPI is based on wholesale prices for primary articles, administered process for fuel items and ex-factory prices for manufactured products. On the other hand, CPI is based on retail prices, which include all distribution costs and taxes.
- iii. Prices of WPI are collected on voluntary basis while price data for CPI is collected by Investigators by visiting markets.
- iv. CPI covers only consumer goods and consumer services while WPI covers all goods including intermediate goods transacted in the economy.
- v. WPI weights primarily based on national accounts and enterprise survey data and CPI weights are derived from consumer expenditure survey data.

### **6 (c) Basis of SENSEX (3 Marks)**

**Answer 6 (c)** Sensitive Index or Sensex is the stock market index for the BSE. It is also sometimes referred to as BSE S&P Sensex. The calculation of Sensex is done by a Free-Float method that came into existence from September 1, 2003. The level of Sensex is direct indication of the performance of 30 stocks in the market. The free-float method takes into account the proportion of the shares that can be readily traded in the market. This does not include the ones held by various shareholders and promoters or other locked- shares not available in market.

Steps to calculate Sensex

— The market capitalization is taken into account. This is done by multiplying all the shares issued by the company with the price of its stock.

— BSE determines a Free-Float factor that is a multiple of the market capitalization of the company. This helps in determining the free-float factor market capitalization based on details submitted by the company.

— Ratio and Proportion are used based on the base index of 100. This helps to determine the Sensex.

### **6 (d) High Net Worth Individuals (3 Marks)**

**Answer 6 (d)** HNIs or High Net worth Individuals is a class of individuals who are distinguished from other retail segment based on their net wealth, assets and investible surplus. While there is no standard put forth for the classification, the definition of HNIs varies with the geographical area as well as financial markets and institutions.

Though there is no specific definition, generally in the Indian context, individuals with over Rs. 2 crore investible surplus may be considered to be HNIs while those with investible wealth in the range of Rs. 25 lakhs to Rs. 2 crore may be deemed as Emerging HNIs.

If one is applying for an IPO of the equity shares in an Indian Company, generally, if one apply for amounts in excess of Rs. 2 lakhs, one falls under the HNI category. On the other hand, if one apply for amount under Rs. 2 lakhs, one is considered as a retail investor.

### **6 (e) Bulk Deal (3 Marks)**

**Answer 6 (e)** Bulk deal is a trade, where total quantity bought or sold is more than 0.5% of the number of equity shares of a listed company.

Bulk deal can be transacted by the normal trading window provided by brokers throughout the trading hours in a day. Bulk deals are market driven and take place throughout the trading day.

The stock broker, who facilitates the trade, is required to reveal to the Stock Exchange about the bulk deals on daily basis.

Bulk orders are visible to everyone. If the bulk deal happens through a single trade, it should be notified to the Stock Exchange immediately upon the execution of the order. If it happens through multiple trades, it should be notified to the exchange within one hour from the closure of the trading.

**6A (i) "An Alternative Investment Fund which has been granted registration under a particular category cannot change its category subsequent to registration, except with the approval of the SEBI". Enumerate the conditions for approval of SEBI. (5 Marks)**

**Answer 6A (i)** As per SEBI Circular No. CIR/IMD/DF/12/2013 dated 7th August, 2013, only AIFs who have not made any investments under the category in which they were registered earlier shall be allowed to make application for change in category. Such AIFs are required to make an application in Form A along with necessary supporting documents. Application fees of Rs. 1, 00,000 must be paid along with the application to SEBI. AIFs are not required to pay registration fees for such applications.

If the AIF has received commitments/ raised funds prior to application for change in category, the AIF shall be required to send letters/ emails to all its investors providing them the option to withdraw their commitments/ fund raised without any penalties/ charges. Any fees collected from investors seeking to withdraw commitments/ funds shall be returned to them. Partial withdrawal may be allowed subject to compliance with the minimum investment amount required under the AIF regulations.

The AIF shall not make any investments till deployment of fund as per the scheme other than in liquid funds/ bank deposits until approval for change in category is granted by SEBI.

On approval of the request from SEBI, the AIF is required to send a copy of the revised placement memorandum and other relevant information to all its investors.

**6A (ii) Dhruv has purchased 1000 shares @ ₹80 per share of a company. He wanted to pay ₹5,000 in cash and balance through bank transfer to stock broker. As a Company Secretary advise Dhruv by referring SEBI regulation/circular. (5 marks)**

**Answer 6A(ii)** SEBI vide its circular no. SEBI/HO/MIRSD/DoP/CIR/P/2018/113 dated 12/07/2018 has discontinued acceptance of cash by Stock Brokers.

In view of the various modes of payments through electronic means available today, it is directed that Stock Brokers shall not accept cash from their clients either directly or by way of cash deposit to the bank account of stock broker.

All payments shall be received / made by the Stock Brokers from/to the clients strictly by account payee crossed cheques/ demand draft or by way of credit into the bank account through electronic fund transfer, or any other mode permitted by the Reserve Bank of India. The stock brokers shall accept cheques drawn only by the clients and also issue cheques in favour of the clients only, for their transactions. Stock Brokers shall not accept cash from their clients either directly or by way of cash deposit to the bank account of Stock Broker.

## **DECEMBER 2018**

**5 (a) Naman had executed following trades on Gama Ltd. stock :**

(i) Purchased one 3-month call option with a premium of ₹25 at an exercise price of ₹530.

(ii) Purchased one 3-month put option with a premium of ₹5 at an exercise price of ₹430.

The lot size is 100 share per lot and the current price of Gama Ltd. stock is ₹500. Determine Naman's profit or loss, if the price of Gama Ltd. stock after 3 months is :

(a) ₹500

(b) ₹350.

**(5 Marks)**

**Answer 5 (a)**

(i) Total premium paid on purchasing a call and put option:

$$= (\text{₹}25 \text{ per share} \times 100 \text{ shares}) + (\text{₹}5 \text{ per share} \times 100 \text{ shares})$$

In this case, Naman neither exercises the call option nor the put option, as both will result in a loss for him.

Ending value : ₹ - 3000 + Nil gain

i.e. Net Loss : ₹3000

(ii) The price of stock is below the exercise price of the call, the call will not be exercised but put is valuable and is exercised.

Total premium paid : ₹3000 is calculated above

$$\text{Ending value : } \quad \text{₹} - 3000 + [(\text{₹}430 - \text{₹}350) \times 100 \text{ shares}] \quad \text{Net Gain : } \quad \text{₹} 5000$$

**5 (b) What is meant by Anchor Investor ? What are the limitations of allocation to anchor investors in the Book building process ? (5 Marks)**

**Answer 5 (b)** According to Regulation 2(1)(c) of SEBI (Issue of Capital and Disclosure Requirements) Regulation 2009, "Anchor Investor" means a qualified institutional buyer who makes an application for a value of ₹10 crores or more in a public issue made through the book building process in accordance with these regulations.

Allocation to anchor investors shall be on a discretionary basis and subject to the following:

1. Maximum of two such investors shall be permitted for allocation up to ₹10 crores.
2. Minimum of 2 and maximum of 15 such investors shall be permitted for allocation above ₹10 crore and up to ₹250 crore subject to minimum allotment of ₹5 crore per such investors.
3. In case of allocation above ₹250 crore; minimum of five such investors and a maximum of 15 such investors for allocation up to ₹250 crores and an additional 10 such investors for every additional ₹250 crore or part thereof, shall be permitted, subject to a minimum allotment of ₹5 crore per such investors. The bidding for Anchor Investors shall open one day before the issue opening date.

4. Allocation to Anchor Investors shall be completed on the day of bidding by Anchor Investors.

5. Shares allotted to the anchor investor shall be locked-in for 30 days from the date of allotment in the public issue.

Up to 60% of the portion available for allocation to QIB shall be available to Anchor Investors for allocation/allotment ("anchor investor portion") and one third of the anchor investor portion shall be reserved for domestic mutual fund.

**5 (c) A listed company, Nishan Hitech Ltd. issued 10 lakh equity shares at a price of ₹150 per share. The company provided Green shoe option for stabilizing the post listing price of the shares. On the day of listing of shares, the news of trade war between the two developed countries flashes and the price of shares of company fall to ₹110. Decide how many shares can be purchased by the stabilizing agent to control the price ? State the provisions for balance money lying in the special account for green shoe option. (5 Marks)**

**Answer 5 (c)** As per regulation 45 (1) of the SEBI (ICDR) Regulations, 2009, the maximum number of securities that may be borrowed for the purpose of allotment or allocation of securities in excess of issue size shall not be more than 15% of the issue size. Therefore stabilizing agent can purchase only 1.5 lakh equity shares to control the price.

The stabilizing agent shall remit the monies with respect to the specified securities allotted to the issue from the special bank account known as GSO Bank A/c. Any money left in the special bank account after remittance of monies to the issuer for securities allotted and deduction of expenses incurred by the stabilizing agent for the sterilization process shall be transferred to the Investor Protection and Education Fund established by the SEBI and the special bank account shall be closed soon thereafter.

**6 (a) Private Equity (3 Marks)**

**Answer 6 (a)** Private equity is a type of equity (finance) and one of the asset classes who takes securities and debt in operating companies that are not publicly traded on stock exchange. Private equity is essentially a way to invest in some assets that aren't publicly traded, or to invest in a publicly traded asset with the intention of taking it private. Unlike stocks, mutual funds and bonds, private equity funds usually invest in more illiquid assets, i.e. companies. By purchasing companies, the firms gain access to those assets and revenue sources of the company, which can lead to a very high return on investments. Another feature of private equity transactions is their extensive use of debt in the form of high-yield bonds.

By using debt to finance acquisitions, private equity firms can substantially increase their financial returns.

**6 (b) Book Closure and Record Date (3 Marks)**

**Answer 6 (b)** Book closure is the periodic closer of the Register of Members and Transfer Books of the company, to take a record of the shareholders to determine their entitlement to dividend or to bonus or right shares or any other rights pertaining to shares.

Record date is the date on which the records of a company are closed for the purpose of determining the stockholders to whom dividends, proxies rights etc. are to be sent.

In accordance with Section 91 of the Companies Act, 2013 a company may close the register of members for a maximum of 45 days in a year and for not more than 30 days at any one time. Book closure/record date is necessary for the purpose of paying dividend, rights issue, bonus issue, etc. For the companies whose securities are listed on the Stock Exchange are required to comply with the SEBI Listing Regulations, 2015. As per the SEBI Listing Regulations, 2015, the companies are required to give 7 working days advance notice of book closure or record date to stock exchange where the securities of the companies are listed.

**6 (d) Venture capital (3 Marks)**

**Answer 6 (d)** Venture Capital is one of the innovative financing resource for a company in which the promoter has to give up some level of ownership and control of business in exchange for capital for a limited period, say, 3-5 years. Venture Capital is generally equity investments made by Venture Capital funds at an early stage in privately held companies, having potential to provide a high rate of return on their investments. It is a resource for supporting innovation, knowledge based ideas and technology and human capital- intensive enterprises.

Different Venture groups prefer different types of Investments. Some specialize in seed capital and early expansion while others focus on exit financing. Biotechnology, medical services, communications, electronic components and software companies seem to be the most likely attraction of venture firms and receiving the most financing. Venture capital firms finance both early and later stage investments to maintain a balance between risk and profitability.

**6 (e) Pension Fund (3 Marks)**

**Answer 6 (e)** Pension Fund means a fund established by an employer to facilitate and organise the investment of employees' retirement funds which is contributed by the employer and employee. The Pension Fund is a common asset pool meant to generate stable growth over the long term, and provide pensions for employees when they reach the end of their working here and commence retirement. Pension funds are commonly run by some sort of financial intermediaries for the company and its employees like NPS scheme is managed by UTI AMC (Retirement Solutions), although some larger corporations operate their pension funds in-house. Pensions are broadly divided into two sectors:

- (i) Formal sector pensions
- (ii) Informal sector pensions

**6A (i) What is meant by Block deal ? How is it being executed in the Stock Exchange?  
(5 Marks)**

**Answer 6A (i)** SEBI vide its circular MRD/DoP/SE/Cir-19/2005 dated September 02, 2005 prescribed guidelines for execution of large size trade through a single transaction. In order to facilitate execution of such large trades, stock exchanges were permitted to provide a separate trading Window. A trade executed on this separate trading window was termed as 'block deal'.

Execution of Block Deal

i. Session timings:

(a) Morning Block Deal Window: This window shall operate between 08:45 AM to 09:00 AM.

The reference price for execution of block deals in this window shall be the previous day closing price of the stock.

(b) Afternoon Block Deal Window: This window shall operate between 02:05 PM to 02:20 PM.

The reference price for block deals in this window shall be the volume weighted average market price (VWAP) of the trade executed in the stock in the cash segment between 01:45 PM to 02:00 PM.

ii. The minimum order size for execution of trades in the block deal window shall be ₹10 crores.

iii. The orders placed shall be within  $\pm 1\%$  of the applicable reference price in the respective windows as stated above.

iv. Every trade executed in the block deal Windows must result in delivery and cannot be squared off or reversed.

v. The stock exchanges disseminate the information on block deals such as the name of the script, name of the client, quantity of shares bought/sold, price, etc. to the general public on the same day, after the market hours.

## December 2020

1) The Nifty Index was trading at 11025 on 1st February, 2019 on NSE. The put option of 10800 with expiry date of 28th February, 2019 was available at ₹50 per lot and the call option of 11300 with same expiry date was available at ₹30 per lot. The size of one lot of Nifty is 75.

Ganesh who is regular trader in stock market purchased 2 lots of put options of 10800 and one lot of call option of 11300. On 22nd February, 2019, the Nifty Index was trading at 10850. Ganesh decided to square off all these transactions. At the time of squaring off, the call option of 10800 could be sold at ₹80 and put option could be sold at ₹5. Calculate the Net gain/loss from this transaction considering the transaction charges including brokerage is fixed at ₹100 per lot (buy or sale). (5 marks)

**Solution:** Computation of Profit and loss for Ganesh

Sale Proceeds	(in ₹)	(in ₹)
Put option: 5 x 2 x 75	750	
Call option : 80 x 1 x 75	6000	
	6750	6750
Cost of options		
Put option: 50 x 2 x 75	7500	
Call option : 30 x 1 x 75	2250	(-)9750
Gross loss	(A)	-3000
Add : Transaction cost (100 x 3 x 2)	(B)	-600
Net Loss	(A+B)	-3600

2) Raman Ltd. issued 50 Lakh equity shares at a price of ₹200 per share. The company provided Green Shoe Option for stabilizing the post listing price of the shares. The issue was oversubscribed and it was decided that stabilizing agent would borrow maximum number of shares permitted by SEBI (ICDR) regulations. Due to rise in price during Green Shoe Option period, only 5 Lakh shares could be bought back at the price of ₹180. You are required to :

- Calculate the number of shares that the stabilizing agent needs to borrow in this case at the time of allotment and explain the same with relevant provisions.
- Explain the responsibility of Issuer Company in the above case with respect to shortfall while exercising Green Shoe Option.
- Calculate the amount if any, to be transferred to Investor Protection and Education Fund. (5 marks)

**Solution:**

(i) As per SEBI (ICDR) Regulations, 2018, the maximum number of shares that can be borrowed by the stabilizing agent shall not be in excess of 15% of the issue size.

In the given case, stabilizing agent can borrow 7.5 Lakh shares (15% of 50 Lakh shares).

(ii) The issuer company would allot the differential 2.5 Lakhs shares into the Green Shoe Demat Account to cover up the shortfall, and the Stabilising Agent would discharge his obligation to the lending shareholder(s) by returning the 7.5 Lakhs shares that had been borrowed from them.

The issuer company would need to apply to the exchanges for obtaining listing/ trading permissions for the incremental shares allotted by them, pursuant to the Green Shoe mechanism.

(iii) The Amount which should be transferred to Investor Protection and Education Fund will be calculated as follows:

$$= 5,00,000 (200-180) = ₹1,00,00,000$$

### 3) Foreign Currency Convertible Bonds

**Solution:** The FCCBs are unsecured instruments which carry a fixed rate of interest and an option for conversion into a fixed number of equity shares of the issuer company. Interest and redemption price (if conversion option is not exercised) is payable in dollars. FCCBs shall be denominated in any freely convertible Foreign Currency. However, it must be kept in mind that FCCB, issue proceeds need to conform to ECB end use requirements.

Foreign investors also prefer FCCBs because of the Dollar denominated servicing, the conversion option and, the arbitrage opportunities presented by conversion of the FCCBs into equity shares at a discount on prevailing Indian market price. In addition, 25% of the FCCB proceeds can be used for general corporate restructuring.

### 4) Self-Certified Syndicate Bank

**Solution:** Self-Certified Syndicate Bank (SCSB) is a bank which offers the facility of applying through the ASBA process. A bank desirous of offering ASBA facility shall submit a certificate to SEBI as per the prescribed format for inclusion of its name in SEBI's list of SCSBs.

A SCSB shall identify its Designated Branches (DBs) at which an ASBA investor shall submit ASBA and shall also identify the Controlling Branch (CB) which shall act as a coordinating branch for the Registrar of the issue, Stock Exchanges and Merchant Bankers. The SCSB, its DBs and CB shall continue to act as such, for all issues it to which ASBA process is applicable. The SCSB may identify new DBs for the purpose of ASBA process and intimate details of the same to SEBI, after which SEBI will add the DB to the list of SCSBs maintained by it. The SCSB shall communicate the following details to Stock Exchanges for making it available on their respective websites; these details shall also be made available by the SCSB on its website:

- (i) Name and address of all the SCSB.
- (ii) Addresses of DBs and CB and other details such as telephone number, fax number and email ids.

Name and contacts details of a nodal officer at a senior level from the CB

### 5) As per SEBI (ICDR) Regulations, 2018, the maximum number of shares that can be borrowed by the stabilizing agent shall not be in excess of 15% of the issue size.

**In the given case, stabilizing agent can borrow 7.5 Lakh shares (15% of 50 Lakh shares)**

**Solution:** Market Surveillance plays a vital role in ensuring market integrity which is the core objective of regulators. Market integrity is achieved through combination of surveillance, inspection, investigation and enforcement of relevant laws and rules. Exchange adopt automated surveillance tools that analyse trading patterns and are installed with a comparative alert management system.

Preventive Surveillance –

- Stringent on boarding norms for Trading Members - Stringent net worth, back ground, viability etc. checks while on boarding Trading Members.
- Index circuit filters - It brings coordinated trading halt in all equity and equity derivative markets at 3 stages of the index movement, either way viz., at 10%, 15% and 20% based on previous day closing index value.
- Trade Execution Range - Orders are matched and trades take place only if the trade price is within the reference price and execution range.
- Order Value Limitation - Maximum Order Value limit allowed per order.
- Cancel on logout - All outstanding orders are cancelled, if the enabled user logs out.
- Kill switch - All outstanding orders of that trading member are cancelled if trading member executes kill switch.

- Risk reduction mode - Limits beyond which orders level risk management shall be initiated instead of trade level.
- Compulsory close out - Incoming order, if it results in member crossing the margins available with the exchange, such order will be partially or fully cancelled, as the case may be, and further disallow the trading member to create fresh positions.
- Capital adequacy check - Refers to monitoring of trading member's performance and track record, stringent margin requirements, position limits based on capital, online monitoring of member positions and automatic disablement from trading when limits are breached
- Fixed Price Band / Dynamic Price band - Limits applied within which securities shall move; so that volatility is curbed orderliness is brought about. For non- derivative securities price band is 5%, 10% & 20%. For Derivative products an operating range of 10% is set and subsequently flexed based on market conditions.
- Trade for Trade Settlement - The settlement of scrip's available in this segment is done on a trade for trade basis and no netting off is allowed.
- Periodic call auction - Shifting the security form continuous to call auction method
- Rumour Verification - Any unannounced news about listed companies is tracked on online basis and letter seeking clarification is sent to the companies and the reply received is disseminated.

**6) The issuer company would allot the differential 2.5 Lakhs shares into the Green Shoe Demat Account to cover up the shortfall, and the Stabilising Agent would discharge his obligation to the lending shareholder(s) by returning the 7.5 Lakhs shares that had been borrowed from them**

**The issuer company would need to apply to the exchanges for obtaining listing/ trading permissions for the incremental shares allotted by them, pursuant to the Green Shoe mechanism.**

**Solution:** The Registrar to an Issue and Share Transfer Agents undertake the following activities with respect to issue:

Pre-Issue Work

- Sending instructions to Banks for reporting of collection figures and collection of applications.
- Providing Practical inputs to the Lead Manager and Printers regarding the design of the Bid cum-application form.
- Facilitate and establish information flow system between clients, Banks and Managers to the issue.
- Liaison with Regulatory Authorities such as SEBI & Stock Exchanges.

Post-Issue Work

- Data capturing & validation
- Reconciliation
- Provide Allotment Alternatives in consultation with Client / Merchant Banker and Stock Exchanges
- Facilitating Listing
- Uploading of data to the Depositories for crediting of securities electronically
- Dispatch of Refund orders / Share Certificates / Credit Advise
- Periodic Report submission to Regulatory Authorities
- Reconciliation of Refund payments
- Attending to post issue Investor queries

Web-based investor enquiry system for allotment / refund details

**June 2021**

**1) Aruna Steel Ltd. issued Bonds with the following terms : Issue price of the Bond : ₹1000**

**Coupon rate : 3% Maturity : 5 years**

**Convertible into equity shares @ ₹500 per share**

**Ivan had purchased 20 bonds. At the time of maturity, the market price of the equity shares was ₹400.**

**What are the options available to Ivan on the maturity date and which option he should prefer? (5 marks)**

**Solution:** Ivan purchased 20 bonds @ ₹1000 per bond

Total amount invested ₹20,000. He will get interest for 5 years on the date of maturity. After five years, he has the following options:

i. He may claim redemption and get the bonds converted into fully paid equity shares @ 500 each.

Thus on conversion, he will get 40 equity shares (₹20000 / ₹500)

ii. As the equity shares are also traded in stock exchange, he may buy from market at the prevailing market price of ₹400. Therefore, from the maturity proceed of ₹20000, he can buy 50 equity shares (₹20000/₹400) from the market.

It is clear from the above two options; Ivan should choose option (ii) as he will get more equity share than conversion from company.

**2) Good Luck Finance Ltd., a listed company issued 20 lakh equity shares of ₹180 each. The Company provided Green Shoe Option and Nishan was nominated as Stabilising Agent. On the date of listing, Corona Virus threat spread across the globe. Consequently post listing, the share price of the company fall to ₹150. From the above:**

**(i) Compute the quantum of shares that can be bought by Nishan.**

**(ii) State the provisions for balance of shares lying in the special account for Green Shoe Option. (5 marks)**

**Solution:** Green Shoe Option is a post listing price stabilising mechanism. Good Luck Finance Ltd. issued 20 lakh equity shares @ ₹180 each. As per SEBI (ICDR) Regulations, 2018, the maximum number of securities that can be borrowed for the purpose of allotment/ allocation of securities in excess of issue size shall not be more than 15% of the issue size.

Hence, Nishan (Stabilising agent) can purchase 3,00,000 equity shares (15% of 20,00,000 equity shares) to stabilise the price.

Having bought back all of the 300000 equity shares, these shares would be temporarily held in a special depository account with the depository participant (Green Shoe Demat Account), and would then be returned back to the lender shareholders, within a maximum period of two days after the stabilisation period.

Any surplus lying in the Green Shoe Escrow Account would then be transferred to the Investor Protection and Education Fund established by SEBI.

3) ABC Limited, a public company, has come with public issue of 15,00,000 equity shares through a book building process. The price band is ₹500 - ₹600. The following table shows demand of securities at various price levels. What should be the cut-off price as per book building mechanism?

Bid Price (₹)	Number of Investors	Demand (Number of Shares)
520	25	8,50,000
530	10	4,00,000
535	15	2,00,000
545	4	4,00,000
560	6	1,00,000
575	5	2,00,000
585	3	1,10,000
590	3	1,40,000
595	3	3,50,000
600	1	7,00,000
<b>Total <u>75</u></b>		<b><u>34,50,000</u></b>

(5 marks)

**Solution:** Cutoff price:

Cut off price is the highest price at which demand for securities is fulfilled. Simply, it is the highest price at which all shares offered can be sold by the company. All those investors who have submitted their bid at price equal to or above the cut off price are known as successful bidder and they are entitled for the allotment of shares as per method prescribed in SEBI (ICDR) Regulation, 2018.

In the given question, we calculate cut off price as under: Total number of Equity Shares for public issue: 15,00,000 Price Band: ₹500 - ₹600

Firstly, we have to arrange the demand for shares on the basis of price in descending order and cumulative demand has been calculated.

S. No.	Demand (Number of Shares)	Cumulative Demand	Bid Price (in ₹)
1	700000	700000	600
2	350000	1050000	595
3	140000	1190000	590
4	110000	1300000	585
5	200000	1500000	575
6	100000	1600000	560
7	400000	2000000	545
8	200000	2200000	535
9	400000	2600000	530
10	850000	3450000	520

Offer price will be ₹575. Bids that are at or above the issue price only qualify for share allotment.

All those investors who have applied at ₹575 and above shall be eligible for allotment. From the above table it is clear that the demand is fulfilled at a price of ₹575, so cut

#### 4) Key features of Preventive Surveillance

##### **Solution:**

Key features of Preventive Surveillance

Following are some important features or ingredients of preventive surveillance:

1. Stringent On boarding norms for Trading Members - Stringent net worth, back ground, viability etc. checks while on boarding Trading Members.
2. Index circuit filters - It brings coordinated trading halt in all equity and equity derivative markets at 3 stages of the index movement, either way viz., at 10%, 15% and 20% based on previous day closing index value.
3. Trade Execution Range - Orders are matched and trades take place only if the trade price is within the reference price and execution range.
4. Order Value Limitation - Maximum Order Value limit allowed per order.
5. Cancel on logout - All outstanding orders are cancelled, if the enabled user logs out.
6. Kill switch - All outstanding orders of that trading member are cancelled if trading member executes kill switch.
7. Risk reduction mode - Limits beyond which orders level risk management shall be initiated instead of trade level.
8. Compulsory close out - Incoming order, if it results in member crossing the margins available with the exchange, such order will be partially or fully cancelled, as the case may be, and further disallow the trading member to create fresh positions.
9. Capital adequacy check - Refers to monitoring of trading member's performance and track record, stringent margin requirements, position limits based on capital, online monitoring of member positions and automatic disablement from trading when limits are breached.
10. Trade for Trade Settlement - The settlement of scrip's available in this segment is done on a trade for trade basis and no netting off is allowed.
11. Periodic call auction - Shifting the security from continuous to call auction method.
12. Rumour Verification - Any unannounced news about listed companies is tracked on online basis and letter seeking clarification is sent to the companies and the reply received is disseminated.
13. End of day alert – Alerts generated using statistical tools. The tool highlights stocks which have behaved abnormally from its past behaviour.
14. Pattern recognition model – Models designed using high end tools and trading patterns which itself identifies suspects involving in unfair trading practice.
15. Transaction alerts for member - As part of surveillance obligation of members the alerts are downloaded to members under 14 different heads.

#### 5) Margins

##### **Solution:**

Margins : An advance payment of a portion of the value of a stock transaction. The amount of credit a broker or lender extends to a customer for stock purchase.

Margin is of two types:

1. "Initial margin" in this context means the minimum amount, calculated as a percentage of the transaction value, to be placed by the client, with the broker, before the actual purchase. The broker may advance the balance amount to meet full settlement obligations.
2. "Maintenance margin" means the minimum amount, calculated as a percentage of market value of the securities, calculated with respect to last trading day's closing price, to be maintained by client with the broker.

When the balance deposit in the client's margin account falls below the required maintenance margin, the broker shall promptly make margin calls. However, no further exposure can be granted to the client on the basis of any increase in the market value of the securities.

The broker may liquidate the securities if the client fails to meet the margin calls made by the broker or fails to deposit the cheques on the day following the day on which the margin call has been made or the cheque has been dishonoured.

## 6) Trading Mechanism

**Solution:** In the Indian securities market, various products are traded like equity shares, warrants, debenture, etc. The trading in the securities of the company takes place in dematerialised form in India. Dematerialization is the process by which physical certificates of an investor are converted to an equivalent number of securities in electronic form and credited to the investor's account with his Depository Participant (DP). Trading in the securities of the company takes place on the screen based platforms provided by the Exchanges. Currently for equity shares the settlement cycle is (T+2 days) (T means trading day/ Transaction day). Any shares which are traded on the Exchange are required to be settled by the clearing corporation of the exchange on 2 working day.

In electronic trading order received are matched electronically on a strict price/time priority and hence cuts down on time, cost and risk of error, as well as on fraud resulting in improved operational efficiency. It enables market participants, irrespective of their geographical locations, to trade with one another simultaneously. It provides full anonymity by accepting orders, big or small, from brokers without revealing their identity, thus providing equal access to everybody. It also provides a perfect audit trail, which helps to resolve disputes by logging in the trade execution process in entirety.

## 7) a) What is future contract ?

**b) Akshay buys 500 shares of PQR Limited @ ₹210 per share on the stock exchange platform. In order to hedge the position, he sells 300 futures of PQR Limited @ ₹195 each. Due to fall in the share and futures price by 5% and 3% respectively on next day, Akshay closes his position by counter transactions. Find out his profit or loss. (2+3 marks)**

**Solution:** a) Future refers to a future contract which means an exchange traded forward contract to buy or sell a predetermined quantity of an asset on a predetermined future date at a predetermined price. Contracts are standardized and there's centralized trading ensuring liquidity. There are two positions that one can take in a future contract:

- Long Position - This is when a futures contract is purchased and the buyer agrees to receive delivery of the underlying asset. (Stock/Indices/ Commodities)
- Short Position - This is when a futures contract is sold and the seller agrees to make delivery of the underlying asset. (stock/Indices/Commodities)

(b) Profit or loss in case of buying 500 shares of PQR Ltd.

Buying Cost = 500 x ₹ 210	=	₹1,05,000
Selling price = 500 x [₹210 – (5% of ₹ 210)]	=	₹99,750
Loss= (₹1,05,000 – ₹99,750)	=	₹5,250
Profit or Loss in case of Future 300 shares of PQR Ltd.		
Selling Value= 300 x ₹195	=	₹58,500
Buying Value = 300 x [₹195 – (3% of ₹195)]	=	₹56,745
Profit = (₹58,500 – ₹56,745)	=	₹1,755
Net Loss = ₹5,250 – ₹1,755	=	₹3,495

**8) What is bulk deal ? State the difference between block deal and bulk deal? (5 marks)**

**Solution:** Bulk deal is a trade, where total quantity bought or sold is more than 0.5% of the number of equity shares of a listed company, Bulk deal can be transacted by the normal trading window provided by brokers throughout the trading hours in a day. Bulk deals are market driven and take place throughout the trading day. The stock broker, who facilitates the trade, is required to reveal to the stock exchange about the bulk deals on a daily basis. Bulk orders are visible to everyone. If the bulk deal happens through a single trade, it should be notified to the exchange immediately upon the execution of the order. If it happens through multiple trades, it should be notified to the exchange within one hour from the closure of the trading.

Difference between bulk deal and block deal

S No.	Basis of Difference	Bulk Deal	Block Deal
1	Quantity/Value of Security	Total quantity bought or sold is more than 0.5% of the number of equity shares of a listed company.	In the block deal, the minimum order size for execution of trades shall be ₹10 Crore.
2	Trading Window	Normal trading window.	Separate trading window.
3	Visibility	Bulk deal are visible to everyone.	The stock exchanges disseminates the information on block deals such as the name of the scrip, name of the client, quantity of shares bought/sold, traded price, etc. to the general public on the same day, after the market hours.

**9) What is inflation index ? State the difference between wholesale price index (WPI) and consumer price index (CPI). (5 marks)**

**Solution:** An inflation index is an economic tool used to measure the rate of inflation in an economy. There are several different ways to measure inflation. In India, Consumer Price Index (CPI) and Wholesale Price Index (WPI) are two major indices for measuring inflation. In United States, CPI and PPI (Producer Price Index) are two major indices. The Wholesale Price Index (WPI) was main index for measurement of inflation in India till April 2014 when RBI adopted new Consumer Price Index (CPI) (combined) as the key measure of inflation.

Key differences between WPI & CPI

- Primary use of WPI is to have inflationary trend in the economy as a whole. However, CPI is used for adjusting income and expenditure streams for changes in the cost of living.
- WPI is based on wholesale prices for primary articles, administered prices for fuel items and ex-factory prices for manufactured products. On the other hand, CPI is based on retail prices, which include all distribution costs and taxes.
- Prices for WPI are collected on voluntary basis while price data for CPI are collected by Investigators by visiting markets.
- CPI covers only consumer goods and consumer services while WPI covers all goods including goods transacted in the economy.
- WPI weights primarily based on national accounts and enterprise survey data and CPI weights are derived from consumer expenditure survey data.

## December 2021

1) Suppose B. Co. Ltd. issues bonds with following terms :

Issue price of Bond ₹2000

Coupon rate 2% with maturity period of 2 years Convertible into equity shares @ ₹100 per share

Y has subscribed for 5 bonds and made an investment of ₹10,000. On maturity date, investor will have an option to either claim full redemption amount or convert the Bonds into equity @ ₹100 per share. The quoted share price on maturity date is ₹150. If he goes for conversion how many shares Y will get ? Will it be fair enough if he opts for redemption value ? Calculate which option is best suitable to Y ? (5 marks)

**Solution:** Issue Price per Bond is = Rs.2000/-

Coupon rate = 2%

Maturity period =2 years

Convertible into equity per share will be @ Rs. 100/

Option-I:

Y the investor has subscribed for 5 bonds. The total investment made by him will be Rs. 10,000/-He is entitled to get interest @2% p.a.

The interest will be Rs. 400 (Rs. 10,000\*2% for 2 years)

Thus his total investment for 2 years period becomes Rs. 10,400/- and the conversion price of equity on maturity will be Rs. 100/-

Therefore, he will get 104 equity shares i.e. 10,400/100

Option-II:

If the Equity shares are quoted at Rs. 150/- per share on maturity date, then Y will get 104 x Rs. 150

= Rs. 15,600.

Therefore, Y can opt for conversion of Bonds in to Equity shares rather than accepting the maturity redemption value of Rs. 10,400/-

2) What is the option contract ? How the option contract is classified on the basis of party who exercise the option and time at which the option can be exercised? (5 marks)

**Solution:** Options Contract give its holder the right, but not the obligation, to take or make delivery on or before a specified date at a stated price. But this option is given to only one party in the transaction while the other party has an obligation to take or make delivery. Since the other party has an obligation and a risk associated with making good the obligation, he receives a payment for that. This payment is called as option premium.

Classification of Option Contracts

Option contracts are classified into two types on the basis of which party has the option:

- Call option - A call option is with the buyer and gives the holder a right to take delivery.
- Put option - The put option is with the seller and the option gives the right to take delivery.

Option Contracts are classified into two types on the basis of time at which the option can be exercised:

- European Option - European style options are those contracts where the option can be exercised only on the expiration date. Options traded on Indian stock exchanges are of European Style.
- American Option - American style options are those contracts where the option can be exercised on or before the expiration date.

**3) What do you mean by Unified Payments Interface (UPI) ? Whether use of UPI, as a payment mechanism in public issues is mandatory ? What is the limit one can apply for a public issue through UPI ? (5 marks)**

**Solution:** Unified Payments Interface (UPI) is an instant payment system developed by the National Payment Corporation of India (NPCI), an RBI regulated entity. UPI is built over the IMPS (Immediate Payment Service) infrastructure and allows you to instantly transfer money between any two parties' bank account. UPI as a payment mechanism is available for all public issues for which Red Herring Prospectus is filed after January 01, 2019.

The applicability of UPI as a payment mechanism has been prescribed in a Phased manner as under:

Phase I : From January 01, 2019, the UPI mechanism for retail individual investors through intermediaries will be made effective along with the existing process and existing timeline of T+6 days. The same will continue for a period of 3 months or floating of 5 main board public issues, whichever is later.

Phase II : Thereafter, for applications by retail individual investors through intermediaries, the existing process of physical movement of forms from intermediaries to Self-Certified Syndicate Bank for blocking of funds will be discounted and only the UPI mechanism with existing timeline of T+6 days will continue, for a period of 3 months or floating of 5 main board public issues, whichever is later.

Phase III : Subsequently, final reduced timeline will be made effective using the UPI mechanism.

The limit for IPO application is 2 lakhs per transaction on UPI.

**4) Leveraged Buyout (LBO)**

**Solution:** Leveraged Buyout (LBO)

This refers to a strategy of making equity investments as part of a transaction in which a company, business unit or business assets is acquired from the current shareholders typically with the use of financial leverage. The companies involved in these type of transactions that are typically more mature and generate operating cash flows.

**5) Characteristics of Bond**

**Solution:** Characteristics of Bond

1. Bond has a Fixed face value, which is the amount to be returned to the investor upon maturity.
2. Fixed maturity date, which can range from a few days to 20-30 years or even more.
3. All bonds repay the principal amount after the maturity date.
4. Provides regular payment of interest, semi-annually or annually.
5. Interest is calculated as a certain percentage of the face value known as a 'coupon payment'.
6. Generally considered as less risky investment as compared to equity.
7. It helps to diversify and grow investor's money.

## 6) What do you mean by FED policy ? Briefly state how change in US fed rate can impact India ?

**Solution:** The Federal Reserve System is the central bank of the United States. It performs five general functions to promote the effective operation of the U.S. economy and, more generally, the public interest. The Federal Reserve:

- conducts the nation's monetary policy to promote maximum employment, stable prices, and moderate long-term interest rates in the U.S. economy;
- promotes the stability of the financial system and seeks to minimize and contain systemic risks through active monitoring and engagement in the U.S. and abroad;
- promotes the safety and soundness of individual financial institutions and monitors their impact on the financial system as a whole;
- fosters payment and settlement system safety and efficiency through services to the banking industry and the U.S. government that facilitate U.S.-dollar transactions and payments; and
- promotes consumer protection and community development through consumer-focused supervision and examination, research and analysis of emerging consumer issues and trends, community economic development activities, and the administration of consumer laws and regulations.

The Fed Funds Rate is the interest rate at which the top US banks borrow overnight money from common reserves. All American banks are required to park a portion of their deposits with the Federal Reserve in cash, as a statutory requirement.

Actually, fed fund rate gives the direction in which US interest rates should be heading at any given point of time. If the Fed is increasing the interest rates, lending rates for companies and retail borrowers will go up and vice versa. In India, hike in repo rate may not impact the countries outside India.

On the other hand, US interest rates matter a lot to global capital flows. Some of the world's richest institutions and investors have their base in USA. They constantly compare Fed rates with interest rates across the world to make their allocation decisions.

In the globalised world, markets are connected. An increase in Fed rates will be negative in general for the US stock market and if it leads to another round of sell-offs, it will also have ripple effects on the Indian market.

Any changes in the Fed Fund Rates impact the domestic borrowing market to a large extent. For instance, if the Fed rates go up, it will make the RBI hesitant in cutting rates at that time. The reason is that if RBI cut rates it will lead to heavy pullout of foreign investors from the Indian bond market.

### **Rupee Vs Dollar**

If the Fed rates are hiked, the value of the dollar would go up, thus weakening Indian rupee in comparison. This might hurt India's forex reserves and imports. However, the weaker rupee is good for India's exports but low global demand and stiff competition would not leave much room for Indian exporters to capitalise the situation. DBS said that India's financing requirements will keep the rupee vulnerable to rising US rates this year.

**7) Venture Capital is one of the innovative financing resources for an enterprise. Explain briefly and indicate the areas of investment of Venture Capital.**

**Solution:** Venture Capital is one of the innovative financing resource for a company in which the promoter has to give up some level of ownership and control of business in exchange for capital for a limited period, say, 3-5 years. Venture Capital is generally equity investments made by Venture Capital funds, at an early stage in privately held companies, having potential to provide a high rate of return on their investments. It is a resource for supporting innovation, knowledge based ideas and technology and human capital intensive enterprises.

“Venture Capital Fund” means an Alternative Investment Fund which invests primarily in unlisted securities of start-ups, emerging or early-stage venture capital undertakings mainly involved in new products, new services, technology or intellectual property right based activities or a new business model and shall include an angel fund.

Essentially, a venture capital company is a group of investors who pool investments focused within certain parameters. The participants in venture capital firms can be institutional investors like pension funds, insurance companies, foundations, corporations or individuals but these are high risk investments which may give high returns or high loss.

**Areas of Investment**

Different venture groups prefer different types of investments. Some specialize in seed capital and early expansion while others focus on exit financing. Biotechnology, medical services, communications, electronic components and software companies seem to be the most likely attraction of many venture firms and receiving the most financing. Venture capital firms finance both early and later stage investments to maintain a balance between risk and profitability.

In India, software sector has been attracting a lot of venture finance. Besides media, health and pharmaceuticals, agri-business and retailing are the other areas that are favoured by a lot of venture companies.

## CHAPTER 16 – SECURITIES MARKET INTERMEDIARIES

June 2023

### 1. What do you mean by Capital Market Intermediaries ? What are the different kinds and general obligations of Capital Market Intermediaries ?

**Ans –**

Capital market intermediaries are a link between issuer and investors. They help in interposing between investors and issuer and are established by the regulators. These intermediaries provide services to Issuer or Investor or both and are regulated under Securities and Exchange Board of India (SEBI). Entities that help the issuing company and investing investors to perform various transactions in capital market are called as capital market intermediaries.

Intermediaries are service providers and are an integral part of any financial system. SEBI regulates various intermediaries in the primary and secondary markets through its regulations for these respective intermediaries. SEBI has defined the role of each of the intermediary, the eligibility criteria for granting registration, their functions and responsibilities and the code of conduct to which they are bound.

Kinds of Capital Market Intermediaries:

1. Merchant bankers
2. Registrars and Share Transfer agents (RTA)
4. Underwriters
5. Debenture trustees
6. Bankers to an issue
7. Portfolio Managers
8. Stock brokers

General obligations of Capital Market Intermediaries:

Capital Market intermediaries are required to perform the necessary due diligence in the discharge of their duties, as per the respective SEBI Regulations, keeping in mind the Code of Conduct laid down by SEBI.

The registered capital market intermediaries shall be required to comply with the general obligations and responsibilities as specified in the SEBI (Intermediaries) Regulations, 2008 as well as the specific regulation

pertaining to the intermediary such as SEBI Merchant Bankers Regulations, Portfolio Managers Regulations etc. including -

- An intermediary and its directors, officers, employees and key management personnel shall continuously abide by the code of conduct.
- An intermediary shall provide SEBI with a certificate of its compliance officer on the 1st April of each year certifying:
  - the compliance by the intermediary with all the obligations, responsibilities and the fulfillment of the eligibility criteria on a continuous basis;
  - that all disclosures made in Form A and under the relevant regulations are true and complete.
- Each intermediary shall prominently display a photocopy of the certificate at all its offices including branch offices.

- 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.
- The intermediary shall maintain such books, accounts and records as specified in the relevant regulations.
- The intermediary shall make endeavours to redress investor grievances promptly but not later than 45 days of receipt thereof and when called upon by SEBI to do so it shall redress the grievances of investors within the time specified by SEBI.
- An intermediary shall appoint a compliance officer for monitoring the compliance by it of the requirements of the Act, rules, regulations, notifications, guidelines, circulars and orders made or issued by SEBI or the Central Government, or the rules, regulations and bye-laws of the concerned stock exchanges, or the self regulatory organization, where applicable.
- An intermediary, its directors, officers, employees or key management personnel shall not render, directly or indirectly, any investment advice about any security in the publicly accessible media, whether real-time or non-real-time, unless a disclosure of its interest, direct or indirect, including its long or short position in the said security has been made, while rendering such advice.
- An intermediary shall comply with the net worth requirement as specified by SEBI.

## **2. Appointment of compliance officer by intermediaries**

**Ans -** Appointment of Compliance Officer by intermediaries

An intermediary registered with SEBI shall appoint a compliance officer for monitoring the compliance by it of the requirements of the Act, rules, regulations, guidelines, circulars and orders made or issued by the SEBI or the Central Government, or the rules, regulations and byelaws of the concerned stock exchanges, or the self regulatory organisation. However, the intermediary may not appoint compliance officer if it is not carrying on the activity of the intermediary. The compliance officer shall report to the intermediary or its board of directors, in writing, of any material non-compliance by the intermediary.

**June 2022**

**(a) Enumerate the general obligations and responsibilities of an Investment Adviser in Indian Securities Market.**

**Ans-**

### **General Obligations and Responsibilities of an Investment Adviser**

The SEBI (Investment Advisers) Regulations, 2013 provides the following general obligations and responsibilities of an 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

**(b) What would be the impact on validity of certificate in case of change in status or constitution of an Intermediary ?**

**Ans-**

**Conditions of certificate**

As per Regulation 9(1) of the SEBI (Intermediaries) Regulations, 2008, any certificate granted by the SEBI to an intermediary shall be subject to the condition, namely:—

- (a) where the intermediary proposes to change its status or constitution, it shall obtain prior approval of the SEBI for continuing to act as an intermediary after such change in status or constitution;
- (b) it has to pay the applicable fees in accordance with the relevant regulations;
- (c) it shall abide by the provisions of the securities laws and the directions, guidelines and circulars as may be issued thereunder;
- (d) it shall continuously comply with the requirements of regulation 4;
- (e) it shall meet the eligibility criteria and other requirements specified in SEBI (Intermediaries) Regulations, 2008 and the relevant regulations.

The SEBI may impose other conditions as it may deem fit in the interest of investors or orderly development of the securities market or for regulation of the working of the

intermediary and the intermediary shall comply with such conditions.

A request for prior approval, under clause (a) of sub regulation (1) which is complete in all respects shall be disposed off by the SEBI within a period of sixty days from the date of receipt of such request and where the decision of the SEBI has not been communicated to the intermediary within the said period of sixty days, the prior approval shall be deemed to have been granted.

The request for prior approval under clause (a) of sub regulation (1) shall contain the information in Form A in respect of the intermediary after the proposed change in status or constitution and the information under Part I of Form A shall be uploaded in the website specified by the SEBI.

## **DECEMBER 2019**

### **6 (b) Role of Portfolio Manager (3 marks)**

**Answer 6 (b)** Meaning of Portfolio Manager:

Portfolio manager means any person who pursuant to a contract or arrangement with the client, advises or directs or undertakes on behalf of the client (whether as a Discretionary portfolio manager or otherwise) the management or administration of a portfolio of securities or the funds of the clients as the case may be.

Role of Portfolio Manager:

A portfolio manager plays a pivotal role in deciding the best investment plan for an individual as per his income, age as well as ability to undertake risks. A portfolio manager is responsible for making an individual aware of the various investment tools available in the market and benefits associated with each plan. Make an individual realize why he actually needs to invest and which plan would be the best for him. A portfolio manager is responsible for designing customized investment solutions for the clients according to their financial needs.

### **6 (e) Research Analyst (3 marks)**

**Answer 6(e)** As per SEBI (Research Analysts) Regulations, 2014, "Research analyst" means a person who is primarily responsible for,-

- (i) Preparation or publication of the content of the research report; or
- (ii) Providing research report; or
- (iii) Making 'buy/sell/hold' recommendation; or
- (iv) Giving price target; or
- (v) Offering an opinion concerning public offer,

With respect to securities that are listed or to be listed in a stock exchange, whether or not any such person has the job title of 'research analyst' and includes any other entities engaged in issuance of research report or research analysis.

They study Companies and industries, analyse raw data, and make forecasts or recommendations about whether to buy, hold or sell securities. They analyse information to provide recommendations about investments in securities to their clients. Investors often view analysts as experts and important sources of information about the securities they review and often rely on their advice.

There are basically three broad types of analysts, viz. Sell-side analysts, buy-side analysts and independent analysts.

The net worth requirements of Research Analysts are:

- Body corporate or limited liability partnership firm – not less than ₹25 Lakh.
- Individual or partnership firm shall have net tangible assets of value not less than ₹1 Lakh.

**JUNE 2019**

**5 (b) What do you mean by 'Research Analysts' ? Elucidate the net worth requirements, and role and responsibilities of Research Analyst as per SEBI (Research Analyst) Regulations, 2014. (5 Marks)**

**Answer 5(b)** As per the SEBI (Research Analysts) Regulations, 2014, "Research Analyst" means a person who is primarily responsible for:

- preparation or publication of the content of the research report; or
- Providing research report; or
- making 'buy / sell / hold recommendation; or
- giving price target; or
- offering an opinion concerning public offer, with respect to securities that are listed or to be listed in a stock exchange, whether or not any such person has the job title of 'Research Analyst' and include any other entities engaged in issuance of Research Report or Research Analysis.

Net worth requirement : Body Corporate or Limited Liability Partnership firm – not less than Rs. 25 lakhs; Individual or Partnership firm shall have net tangible assets of value not less than Rs. 1 Lakh.

Role and Responsibility : They study companies and Industries, analyse raw data and make forecast or recommendations about whether to buy, hold or sell securities. They analyse information to provide recommendations about investments in securities to their clients. Investors often view analysts as experts and important source of information about the securities they review and often rely on their advice. There are basically three broad types of analysts, viz. sell-side analysts, buy-side analysts and independent analysts.

**6 (a) Custodian of Securities (3 marks)**

**Answer 6(a)** As per the SEBI (Custodian) Regulations, 1996, a custodian is a person who carries on the business of providing custodial service to the client. The custodian keeps the custody of the securities of the client. The custodian also provides incidental services such as maintaining the accounts of securities of the client, collecting benefits or rights accruing to the client in respect to the securities.

Roles and Responsibilities:

- Administrate an protect the assets of the clients
- Open a separate custody account and deposit account in the name of each client
- Record Assets
- Conduct registration of Securities Net Worth: Minimum Rs. 50 crore.

**6A (iii) "SEBI has amended the provisions related to registration of Sub-Broker to act as a market intermediary". Elucidate the statement and discuss the migration path for existing registered Sub-Brokers. (5 marks)**

**Answer 6A(iii)** Under the current regulatory framework, Sub-Brokers ('SB') need to seek registration from SEBI under SEBI (Stock Broker and Sub-Broker) Regulations, 1992, and Authorized Persons ('AP') need to seek registration from the concerned Exchange. There is no difference in the operative role of a Sub-Broker and that of an Authorized Person. Therefore, SEBI vide its circular no. SEBI/HO/MIRSD/DoP/CIR/P/2018/117 dated 03/08/2018

has discontinued with sub-broker as an intermediary to be registered with SEBI. In view of the same, the need for the category of the Sub-Broker as a market intermediary may no longer be required. Therefore, it is decided that –

(a) No fresh registration shall be granted to any person as Sub-Broker. Any pending applications for registration as Sub-Broker under process, shall be returned to the concerned Stock Exchanges for onward transmission to the applicant.

(b) The registered Sub-Brokers shall have time till March 31, 2019 in order to migrate to act as an Authorised Person (AP) and / or Trading Member (TM). The sub- Brokers, who do not choose to migrate into AP and / or TM, shall deemed to have surrendered their registration with SEBI as Sub-Broker, w.e.f. March 31, 2019.

(c) Consequent upon migration/deemed surrender, the Certificate of Registration granted to the Sub-Broker by SEBI shall stand withdrawn.

(d) The migration path for existing registered Sub-Broker, shall be under:

i. In case of a registered Sub-Broker who is already approved to act as AP in Derivatives Segment of the Exchanges, he shall be registered with the Exchanges to continue activities of Sub-Broker as AP in Cash Segment.

ii. In case of a registered Sub-Broker who is not approved by Stock Exchanges to act as AP in Derivatives Segment, Exchanges shall register them as AP in Cash Segment, to continue their operations without disruption.

iii. The existing Sub-Broker has an option to become a Trading Member, if the Sub-Broker meets the eligibility criteria prescribed under Stock Exchange Bye-Laws and SEBI Regulations and by complying with these Regulations.

## **DECEMBER 2018**

### **6 (c) Bankers to an issue (3 marks)**

**Answer 6 (c)** According to SEBI (Bankers to an Issue) Regulations, 1994, “banker to an issue” means a scheduled bank carrying on all or any of the following activities:

- (i) Acceptance of application and application monies;
- (ii) Acceptance of allotment or call monies;
- (iii) Refund of application monies;
- (iv) Payment of dividend or interest warrants.

### **6A(ii) Credit Rating Agencies may not be taking cognizance of information for delays in servicing debt obligations while reviewing of its ratings. What are the material events requiring a review by the Credit Rating Agencies as per SEBI’s circular? (5marks)**

**Answer 6A(ii)** The statement is based on SEBI circular no. SEBI/HO/MIRSD/MIRSD4/CIR/P/2017/71 dated 30th June, 2017, issued for Monitoring and Review of Ratings by Credit Rating Agencies (CRAs):

As per regulation 15 of SEBI (Credit Rating Agencies) Regulations, 1999, CRAs are required to continuously monitor the rating of securities and disseminate information regarding newly assigned ratings, and changes in earlier rating, promptly through press releases on website of CRAs as well as all the stock exchanges where the said securities are listed. Material Events requiring a review CRAs shall carry out a review of the ratings upon the occurrence of or announcement/ news of material events including, but not restricted to the following:

- a. Quarterly/Half-Yearly/Annual results;
- b. Merger/Demerger/Amalgamation/Acquisition;
- c. Corporate debt restructuring, reference to BIFR and winding-up petition filed by any party/creditors;
- d. Significant decline in Share prices/Bond prices of the issuer or group companies which is not linked to overall market movement;
- e. Significant increase in debt level or cost of debt of the issuer company
- f. Losses, sharp revenue De-growth, etc. based on publicly disclosed financial statements, which are not in line with CRA's earlier estimates;
- g. Granting, withdrawal, surrender, cancellation or suspension of key licences or regulatory approvals;
- h. Disruption/commencement/postponement of operations of any unit or division of the listed entity;
- i. Any attachment or prohibitory orders against the Issuer;
- j. Any rating action taken by an international rating agency with respect to rating assigned to the Issuer/instruments issued by the Issuer.

**6A (iii) Explain the provisions for compulsory internal audit of Registrars to an Issue/ Share Transfer Agents (RTAs). (5 marks)**

**Answer 6A(iii)** SEBI vide its circular dated 20th April, 2018 provides for compulsory internal audit of Registrar to an Issue/Share Transfer Agents (RTAs) which is discussed below:

1. All Registrar to an Issue/Share Transfer Agents (RTAs) are required to carry out internal audit on annual basis by independent qualified CA/CS/CMA and Certified Information Systems Auditor (CISA) who don't have any conflict of interest.
2. Eligibility of auditors for conducting the internal audit of the RTA:
  - i) The audit firm shall have a minimum experience of 3 years in the financial sector.
  - ii) An auditor shall be appointed for a maximum term of 5 years, with a cooling- off period of 2 years.
3. The auditor shall cover all aspects of RTA operations including investor grievance redressal mechanism and compliance with the requirements stipulated in the SEBI Act, Rules and Regulations made there under, and guidelines/circulars issued by SEBI from time to time.
4. The reports and state the methodology adopted, deficiencies observed, and consideration of response of the management on the deficiencies.
5. The report shall include a summary of operations and of the audit, covering the size of operations, number of transactions audited and the number of instances where violations/ deviations where observed while making observations on the compliance of any regulatory requirement.
6. The report shall comment on the adequacy of systems adopted by the RTAs for compliance with the requirements of regulations and guidelines issued by SEBI and investor grievance redressal.
7. The RTA shall submit a copy of report of the internal audit to Issuer Company within 3 months from the end of the financial year. Copy of the same shall also be preserved by the RTA.
8. The Governing Council (Board of Directors, Board of Partners, proprietor, etc. as applicable) of the RTA shall consider the report of the internal auditor and take steps to

rectify the deficiencies, if any. The RTA shall send the Action Taken Report in prescribed format to Issuer Company within next one month and a copy thereof shall be maintained by the RTA.

9. The audit observations along with the corrective steps taken by the RTA shall be placed before the Board of Directors of the Issuer Company.

10. The Issuer Companies shall satisfy themselves regarding the adequacy of the corrective measures taken by the concerned RTA. If not satisfied with the corrective measures, Issuer Company may take more stringent corrective measures.

## **December 2020**

**1) “Debenture Trustee should exercise due diligence to ensure compliances with the provisions of the Companies Act, listing agreement of stock exchange and the trust deed.” In the light of the above statement, enumerate the various responsibilities of Debenture trustee as per SEBI (Debenture Trustees) Regulations, 1993. (5 marks)**

**Solution:** Debenture Trustee’ means a trustee of a trust deed for securing any issue of debentures of a body corporate. The various responsibilities of Debenture trustee as per SEBI (Debenture Trustees) Regulations, 1993 are as follow:

- Call for periodical reports from the body corporate, i.e., issuer of debentures.
  - Take possession of trust property in accordance with the provisions of the trust deed.
  - Enforce security in the interest of the debenture holders.
  - Ensure on a continuous basis that the property charged to the debenture is available and adequate at all times to discharge the interest and principal amount payable in respect of the debentures and that such property is free from any other encumbrances except those which are specifically agreed with the debenture trustee.
  - Exercise due diligence to ensure compliance by the body corporate with the provisions of the Companies Act, the listing agreement of the stock exchange or the trust deed.
  - To take appropriate measures for protecting the interest of the debenture holders as soon as any breach of the trust deed or law comes to his notice.
  - To ascertain that the debentures have been converted or redeemed in accordance with the provisions and conditions under which they are offered to the debenture holders.
  - Inform the SEBI immediately of any breach of trust deed or provision of any law.
- Appoint a nominee director on the board of the body corporate when required

## **2) Bankers to an issue**

**Solution:** Bankers to an Issue

Banker to an issue means a scheduled bank carrying on all or any of the following activities:

- (i) Acceptance of application and application monies;
- (ii) Acceptance of allotment or call monies;
- (iii) Refund of application monies;

Payment of dividend or interest warrants.

Bankers to the issue, as the name suggests, carries out all the activities of ensuring that the funds are collected and transferred to the Escrow accounts. While one or more banks may function as Bankers to the issue as well as collection banks, others may do the limited work of collecting the applications for securities along with the remittance in their numerous branches in different centres. The banks are expected to furnish prompt information and records to the company as well as to the lead manager for monitoring and progressing the issue work.

### 3) Custodians of Securities

**Solution:** Custodians of Securities

A custodian is a person who carries on or propose to carry on the business of providing custodial services to the client. The custodian keeps the custody of the securities of the client. The custodian also provides incidental services such as maintaining the accounts of securities of the client, collecting the benefits or rights accruing to the client in respect of securities.

Custodians of Securities carrying the following activities:

- Administrate and protect the assets of the clients.
- Open a separate custody account and deposit account in the name of each client.
- Record assets.

Conduct registration of securities

### 4) Indian Depository Receipts

**Solution:** According to Section 2(48) of the Companies Act, 2013 “Indian Depository Receipt” means any instrument in the form of a depository receipt created by a domestic depository in India and authorised by a company incorporated outside India making an issue of such depository receipts.

An IDR is an instrument denominated in Indian Rupee in the form of a depository receipt created by a domestic depository (Custodian of securities registered with SEBI) against the underlying equity of issuing company to enable foreign companies to raise funds from Indian Securities Markets.

In an IDR, foreign companies would issue shares, to a domestic (Indian) depository, which would in turn issue depository receipts to investors in India. The actual shares underlying the IDRs would be held by an Overseas Custodian, which shall authorize the Indian depository to issue the IDRs. To that extent, IDRs are derivative instruments because they derive their value from the underlying shares

**5) The Amount which should be transferred to Investor Protection and Education Fund will be calculated as follows:  
= 5,00,000 (200-180) = ₹1,00,00,000**

**(ii) The Registrar to an Issue and Share Transfer Agents constitute an important category of intermediaries in the securities market. List out the 'pre-issue' and 'post-issue' work undertaken by them.**

**(iii) The Companies Act, 2013 has authorised equity share capital with differential rights as to dividend, voting or otherwise read with rules under Companies (Share Capital and Debentures) Rules, 2014. Briefly explain the conditions for issue of shares with differential voting rights under the Act. (5 marks each)**

**Solution:** Shares with Differential Voting Rights (DVRs)

Section 43(a)(ii) of the Companies Act, 2013, authorized equity share capital with differential rights as to dividend, voting or otherwise in accordance with rule 4 of Companies (Share Capital and Debentures) Rules, 2014 which prescribes the following conditions for issue of DVRs :

- a. the articles of association of the company authorizes the issue of shares with differential rights;
- b. the issue of shares is authorized by ordinary resolution passed at a general meeting of the shareholders. Where the equity shares of a company are listed on a recognized stock exchange, the issue of such shares shall be approved by the shareholders through postal ballot at a general meeting;
- c. the voting power in respect of shares with differential rights of the company shall not exceed seventy four per cent of total voting power including voting power in respect of equity shares with differential rights issued at any point of time;
- d. the company has not defaulted in filing financial statements and annual returns for three financial years immediately preceding the financial year in which it is decided to issue such shares;
- e. the company has no subsisting default in the payment of a declared dividend to its shareholders or repayment of its matured deposits or redemption of its preference shares or debentures that have become due for redemption or payment of interest on such deposits or debentures or payment of dividend;
- f. the company has not defaulted in payment of the dividend on preference shares or repayment of any term loan from a public financial institution or state level financial institution or scheduled bank that has become repayable or interest payable thereon or dues with respect to statutory payments relating to its employees to any authority or default in crediting the amount in Investor Education and Protection Fund to the Central Government. However, a company may issue equity shares with differential rights upon expiry of five years from the end of the financial year in which such default was made good;
- g. the company has not been penalized by Court or Tribunal during the last three years of any offence under the Reserve Bank of India Act, 1934, Securities and Exchange Board of India Act, 1992, Securities Contracts (Regulation) Act, 1956, the Foreign Exchange Management Act, 1999 or any other special Act under which such companies being regulated by sectoral regulators;
- h. The explanatory statement to be annexed to the notice of the general meeting in pursuance of section 102 or of a postal ballot in pursuance of section 110 of the Companies Act, 2013 shall contain the disclosures as mentioned in the rules;
- i. The company shall not convert its existing share capital with voting rights into equity share capital carrying differential voting rights and vice-versa;
- j. The Board of Directors shall disclose in the Board's Report for the financial year in which the issue of equity shares with differential rights was completed, the details as mentioned in the rules;

k. The holders of the equity shares with differential rights shall enjoy all other rights such as bonus shares, rights shares etc., which the holders of equity shares are entitled to, subject to the differential rights with which such shares have been issued;

l. The register of members maintained under section 88 of the Companies Act, 2013, shall contain all the relevant particulars of the shares so issued along with details of the shareholders.

## **June 2021**

### **1) Debenture Trustee**

**Solution:** 'Debenture Trustee' means a trustee appointed in respect of any issue of debentures of a body corporate.

Duties of Debenture Trustee:

It shall be the duty of every debenture trustee to-

- o satisfy itself that the prospectus or letter of offer does not contain any matter which is inconsistent with the terms of the issue of debentures or with the trust deed;
- o satisfy itself that the covenants in the trust deed are not prejudicial to the interest of the debenture holders;
- o call for periodical status/performance reports from the issuer company within 7 days of the relevant board meeting or within 45 days of the respective quarter whichever is earlier;
- o communicate promptly to the debenture holders defaults, if any, with regard to payment of interest or redemption of debentures and action taken by the trustee therefor;
- o call for reports on the utilization of funds raised by the issue of debentures;
- o Take possession of trust property in accordance with the provisions of the trust deed;
- o Exercise due diligence to ensure compliance by the body corporate with the provisions of the Companies Act, the listing agreement of the stock exchange or the trust deed
- o To take appropriate measures for protecting the interest of the debenture holders as soon as any breach of the trust deed or law comes to his notice.
- o To ascertain that the debentures have been converted or redeemed in accordance with the provisions and conditions under which they are offered to the debenture holders.
- o Inform the SEBI immediately of any breach of trust deed or provision of any law.
- o Appoint a nominee director on the board of the body corporate when required.

### **2) Foreign Portfolio Investor**

**Solution:** "Foreign Portfolio Investor" means a person who has been registered under Chapter II of SEBI (Foreign Portfolio Investors) Regulations, 2019 and shall be deemed to be an intermediary in terms of the provisions of the SEBI Act, 1992.

General Obligations and Responsibilities

The foreign portfolio investor shall –

- a) comply with the provisions of Foreign Portfolio Investors Regulations, as far as they may apply, circulars issued thereunder and any other terms and conditions specified by the SEBI from time to time;
- b) forthwith inform the Board 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;
- c) 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;
- d) 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;
- e) 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;

- f) obtain a Permanent Account Number from the Income Tax Department;
- g) in relation to its activities as foreign portfolio investor, at all times, subject itself to the extant Indian laws, rules, regulations, guidelines and circulars issued from time to time;
- h) 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;
- i) undertake necessary KYC on its shareholders/investors in accordance with the rules applicable to it in the jurisdiction where it is organised;
- j) provide any additional information or documents including beneficiary ownership details of their clients as may be required by the designate depository participant or the SEBI or any other enforcement agency to ensure compliance with the Prevention of Money Laundering Act, 2002 and the rules and regulations specified thereunder, the Financial Action Task Force standards and circulars issued from time to time by the Board; and
- k) ensure that securities held by foreign portfolio investors are free from all encumbrances.

- a) undertake necessary KYC on its shareholders/investors in accordance with the rules applicable to it in the jurisdiction where it is organised;
- b) provide any additional information or documents including beneficiary ownership details of their clients as may be required by the designate depository participant or the SEBI or any other enforcement agency to ensure compliance with the Prevention of Money Laundering Act, 2002 and the rules and regulations specified thereunder, the Financial Action Task Force standards and circulars issued from time to time by the Board; and
- c) ensure that securities held by foreign portfolio investors are free from all encumbrances.

## **December 2021**

### **1) Internal Audit of Intermediaries.**

#### **Solution:** Internal Audit of Intermediaries

Efficient internal control systems and processes are pre requisite for good governance. The governance being a dynamic concept requires constant evaluation and monitoring of the systems and processes. In the context of Capital Markets, capital markets intermediaries are an important constituent of overall governance framework. Being an important link between regulators, investors and issuers, they are expected to ensure that their internal controls are so efficient that ensure effective investor service at all times and provide regulators comfort as to the compliance of regulatory prescription. In this direction that SEBI has authorised Practising Company Secretaries to undertake internal audit of various capital market intermediaries.

### **2) What do you mean by discretionary portfolio manager ? How portfolio manager plays a pivotal role in deciding the best investment plan for an individual ?**

**Solution:** "Discretionary Portfolio Manager" means a portfolio manager who under a contract relating to portfolio management, exercises or may exercise, any degree of discretion as to the investment of funds or management of the portfolio of securities of the client, as the case may be. A portfolio manager plays a pivotal role in deciding the best investment plan for an individual as per his income, age as well as ability to undertake risks. A portfolio manager is responsible for making an individual aware of the various investment tools available in the market and benefits associated with each plan. Make an individual realize why he actually needs to invest and which plan would be the best for him. A portfolio manager is responsible for designing customized investment solutions for the clients according to their financial needs.