

KEY CONCEPTS

- Bonus Issue ■ Employee Stock Option Schemes ■ Employee Stock Purchase Schemes ■ Stock Appreciation Rights Schemes ■ General Employee Benefits Schemes ■ Retirement Benefit Schemes ■ Sweat Equity Shares
- Relevant Date ■ Intellectual Property Rights

Learning Objectives

To understand:

- Concepts related to bonus shares, sweat equity shares and various share based employee benefit schemes
- Provisions relating to bonus shares, sweat equity shares and various share based employee benefit schemes
- Various compliances required to be fulfilled from time to time by a company with respect to bonus shares, sweat equity shares and share based employee benefit schemes

Lesson Outline

- Bonus Issues
 - Provisions pertaining to Bonus Issue under the Companies Act, 2013, SEBI (ICDR) Regulations, 2018, SEBI (LODR) Regulations, 2015
 - Check Points and Procedure for Issue of Bonus Shares
- SEBI (Shares Based Employee Benefits and Sweat Equity) Regulations, 2021
 - Applicability
 - Non-Applicability
 - Important Definitions
 - Schemes – Implementation and Process
- Administration of Specific Scheme
- Provisions pertaining to ESOP/ESPS under the SEBI (LODR) Regulations, 2015
- ESPS/ESOS/SARS/GEBS/RBS – Pre Issue and Post Issue Formalities
- Procedure for issuing ESOP by a Listed Company
- Issue of Sweat Equity Shares
- Provisions pertaining to Sweat Equity Shares under the Companies, 2013 and SEBI (Share Based Employee Benefits and Sweat Equity) Regulations, 2021
- Check Points and Procedure for Issuance of Sweat Equity Shares
- Lesson Round-Up
- Glossary
- Test Yourself
- List of Further Readings
- Other References

REGULATORY FRAMEWORK

- SEBI (Share Based Employee Benefits and Sweat Equity) Regulations, 2021
- Relevant Provisions of the Companies Act, 2013
- Relevant Provisions of the SEBI (Issue of Capital and Disclosure Requirements) Regulations, 2018
- Relevant Provisions of the SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015

BONUS ISSUE

Factors to the success of any company is its ability to draw investors to be with the company by issuing various incentives like dividends and bonus shares to them. When an issuer makes an issue of shares to its existing shareholders without any consideration based on the number of shares already held by them as on a record date it is called a bonus issue. The shares are issued out of the Company's free reserve or share premium account in a particular ratio to the number of securities held on a record date.

Bonus shares are additional shares issued by a company to its existing shareholders for free, based on a ratio of the shares already owned by them. By issuing bonus shares, the number of shares outstanding increases; but while the distribution is made according to the ratio decided by the company, the individual shareholding stake does not change.

A company may, if its Articles provide, capitalize its profits by issuing fully-paid bonus shares. The issue of bonus shares by a company is a common feature. When a company is prosperous and accumulates large distributable profits, it converts these accumulated profits into capital and divides the capital among the existing members in proportion to their entitlements. Members do not have to pay any amount for such shares. They are given free. The vesting of the rights in the bonus shares takes place when the shares are actually allotted and not from any earlier date.

When a company has accumulated free reserves and is desirous of bridging the gap between the capital and fixed assets, it issues bonus shares to its equity shareholders. Such an issue would not place any fresh funds in the hands of the company. On the contrary, after a bonus issue it would become necessary for the company to earn more to effectively service the increased capital. The shareholder will, however, be benefitted by way of increased return on investment and increased number of shares in their hands.

Advantages of Issuing Bonus Shares

1. Fund flow is not affected adversely.
2. Market value of the Company's shares comes down to their nominal value by issue of bonus shares.
3. Market value of the members' shareholdings increases with the increase in number of shares in the company.
4. Bonus shares is not an income. Hence, it is not a taxable income.
5. Paid-up share capital increases with the issue of bonus shares.

A. Provisions pertaining to Bonus Issue under the Companies Act, 2013

According to section 63(1), a company may issue fully paid-up bonus shares to its members, in any manner whatsoever, out of —

- (i) its free reserves;
- (ii) the securities premium account; or
- (iii) the capital redemption reserve account.

Bonus shares shall not be made by capitalizing reserves created by the revaluation of assets.

Conditions for issue of Bonus Shares

In terms of section 63(2) of the Companies Act, 2013, company shall not capitalise its profits or reserves for the purpose of issuing fully paid-up bonus shares, unless-

- (a) It is authorised by its articles;
- (b) It has been authorized by the shareholders in a general meeting of the company, on the recommendation of the Board of Directors;
- (c) It has not defaulted in the payment of interest or principal in respect of fixed deposits or debt securities, if any issued by it;
- (d) It has not defaulted in respect of the payment of statutory dues of the employees, such as contribution to provident fund, gratuity and bonus;
- (e) The partly paid up shares, if any outstanding on the date of allotment have been made fully paid up.

The bonus shares shall not be issued in lieu of dividend.

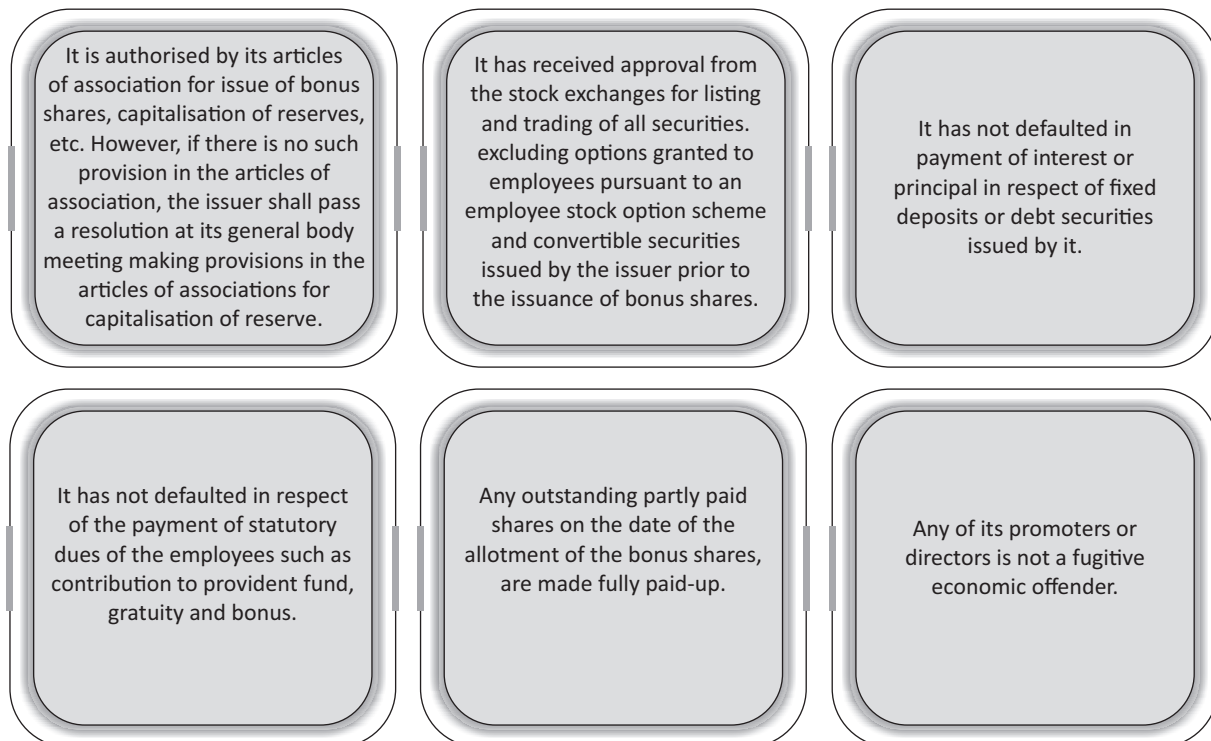
According to Rule 14 of the Companies (Share Capital and Debentures) Rules, 2014, the company which has once announced the decision of its Board recommending a bonus issue, shall not subsequently withdraw the same.

B. Provisions pertaining to Bonus Issue under the SEBI (Issue of Capital and Disclosure Requirements) Regulations, 2018

SEBI has issued regulations for Bonus Issue which are contained in Chapter XI of the SEBI (Issue of Capital and Disclosure Requirements) Regulations, 2018 with regard to bonus issues by listed companies.

1. Eligibility [Regulation 293]

Subject to the provisions of the Companies Act, 2013 or any other applicable law, a listed issuer shall be eligible to announce its bonus issue and issue bonus shares to its members if:



2. Rights of Fully or Partly Compulsorily Convertible Debt Instruments Holders

An issuer shall make a bonus issue of equity shares only if it has made reservation of equity shares of the same class in favour of the holders of outstanding compulsorily convertible debt instruments if any, in proportion to the convertible part thereof i.e. the proposed bonus issue should not dilute the value or rights of the fully or partly convertible debentures.

The equity shares so reserved for the holders of fully or partly compulsorily convertible debt instruments, shall be issued to the holder of such convertible debt instruments or warrants at the time of conversion of such convertible debt instruments, optionally convertible instruments, warrants, as the case may be, on the same terms or same proportion at which the bonus shares were issued.

3. Bonus out of Free Reserves

Bonus issue shall be made only out of free reserves, securities premium account or capital redemption reserve account and built out of the genuine profits or securities premium collected in cash and reserves created by revaluation of fixed assets shall not be capitalised for this purpose.

4. Bonus issues not to be in lieu of Dividend

The bonus share shall not be issued in lieu of dividend.

5. Voting Rights in case of SR equity shares

If an issuer has issued SR equity shares to its promoters or founders, any bonus issue on the SR equity shares shall carry the same ratio of voting rights compared to ordinary shares and the SR equity shares issued in a bonus issue shall also be converted to equity shares having voting rights same as that of ordinary equity shares along with existing SR equity shares.

6. Bonus issue in Dematerialised Forms

The allotment of shares in a bonus issue shall be made only in the dematerialised form.

7. Implementation of Proposal

An issuer, announcing a bonus issue after approval by its board of directors and not requiring shareholders' approval for capitalization of profits or reserves for making the bonus issue, shall implement the bonus issue within 15 days from the date of approval of the issue by its Board of Directors.

However, where the issuer is required to seek shareholders' approval for capitalization of profits or reserves for making the bonus issue, the bonus issue shall be implemented within 2 months from the date of the meeting of its Board of Directors wherein the decision to announce the bonus issue was taken subject to shareholders' approval.

It may be noted that SEBI has prescribed per day fine if the bonus issue is not completed within the above-mentioned timeline of fifteen days / two months.

Explanation : For the purpose of a bonus issue by a listed entity to be considered as 'implemented' the date of commencement of trading shall be considered.

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

Examples:

1. Mr. X holds 300 shares of ABC Ltd. which declares 1:1 bonus that is for every one share, he gets 1 share for free. That is total 300 shares for free and his total holding will increase to 600 shares.
2. Mr. X holds 300 shares of ABC Ltd. which declares 4:1 bonus that is for every one share, he gets 4 shares for free. That is total 1200 shares for free and his total holding will increase to 1500 shares.

3. Mr. X holds 400 shares of ABC Ltd. which declares 1:4 bonus that is for every four shares, he gets 1 share for free. That is total 100 shares for free and his total holding will increase to 500 shares.

C. Provisions pertaining to Bonus Issue under the SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015

Prior Intimation: As per Regulation 29 of the SEBI (LODR) Regulations, 2015, the listed entity shall give prior intimation to stock exchange about the meeting of the Board of Directors in which the proposal for declaration of bonus securities is due to be considered. The said intimation is required to be given at least two working days in advance, excluding the date of the intimation and date of the meeting.

Record Date: As per Regulation 42 of the SEBI (LODR), 2015, the listed entity shall intimate the record date for issue of bonus shares to all the stock exchange(s) where it is listed or where stock derivatives are available on the stock of the listed entity or where listed entity's stock form part of an index on which derivatives are available.

Disclosure of events or information: As per Regulation 30 of the SEBI (LODR), 2015, the listed entity shall disclose to the Exchange(s), within 30 minutes of the closure of the meeting, held to consider the increase in capital by issue of bonus shares through capitalization including the date on which such bonus shares shall be credited/dispatched.

CHECK POINTS FOR ISSUANCE OF BONUS SHARE

Before issuance of Bonus Shares, followings points must be ensured:

1. Check, if there is a provision in the Articles of Associations (AoA) permitting issue of bonus shares by capitalization of reserves, etc. If there is no such provision, alter the AoA to permit the issuance of bonus shares. Passing a resolution at the company's general body meeting making provisions in the AoA for capitalization of reserve.
2. Check and ensure that the expanded capital after the issue is within the authorised share capital of the company. Otherwise, complete the proceedings by increasing the Authorised Capital suitably.
3. Check that it has received approval from the stock exchange for listing.
4. Check that there is no default in payment of interest or principal in respect of: (i) fixed deposits or (ii) debt securities issued by company.
5. Check and ensure that there is no default in respect of the payment of statutory dues of the employees such as contribution to provident fund, gratuity, bonus etc.
6. In case the share capital of the company consists of any partly paid-up shares, to make it fully paid-up before issue of bonus shares.
7. Ensure that none of the directors or promoters of the company is a fugitive economic offender.
8. Ensure that the Bonus issue is made out of free reserve built out of the genuine profits or share premium collected in cash only.
9. Ensure that reserves created by revaluation of fixed assets are not capitalised and that bonus shares are not issued in lieu of dividend.

10. Ensure that in case the company makes a bonus issue of equity shares if it has outstanding fully or partly convertible debt instruments at the time of making the bonus issue, the company has made reservation of equity shares of the same class in favour of the holders of such outstanding convertible debt instruments in proportion to the convertible part thereof.
11. Ensure that the Company must implement the bonus issue within 15 days from the date of approval of the issue by Board of Directors if the company announcing a bonus issue after the approval of Board of Directors and does not require shareholders' approval for capitalization of profits or reserves for making the bonus issue.
12. Ensure that the bonus issue must be implemented within 2 months from the date of the meeting of Board of Directors wherein the decision to announce the bonus issue was taken subject to shareholders' approval if the company is required to seek shareholders' approval for capitalization of profits or reserves for making the bonus issue.³
13. Once the decision to make a bonus issue is announced, the issue cannot be withdrawn.

PROCEDURE FOR ISSUE OF BONUS SHARES

1. Send Notice of Board Meeting at least before 7 days before the date of Board Meeting.
2. In the case of listed entity, inform the Stock Exchange atleast 2 working days prior to the date of Board Meeting of the proposal to consider the Bonus Issue.
3. Convene a Board Meeting to consider the issue of bonus shares and for taking necessary steps in that regard, including fixing the date of closure of books and to fix up the date, time, place and agenda for holding a General Meeting to pass a Special Resolution.
4. Submit the Outcome of Board Meeting within 30 minutes of the conclusion of the Board Meeting.
5. Issue a notice of General Meeting to the shareholders, Directors and Auditors at least 21 clear days before the date of General Meeting.
6. Conduct a general meeting to consider and pass Special resolution .
7. File form MGT-14 within 30 days of passing special resolution.
8. Permission of RBI, if any, required under FEMA, 1999 should be obtained to allot bonus shares to Non-Resident Indians if such issue do not fall under the automatic route.
9. Obtain necessary listing and trading approval from the stock exchange.
10. To hold a Board Meeting and complete proceeding regarding allotment of the bonus shares in the proportion and in the manner as mentioned in the resolution, and as approved by the Stock Exchange.
11. File the return of allotment with the ROC in PAS—3 after paying the requisite fee within 30 days of the allotment of shares.
12. Submit an application to the Stock Exchange(s) concerned for listing the bonus shares allotted.
13. Obtain necessary approval from the NSDL and CDSL for issuing shares in demat mode.
14. In case of physical, issue the share certificates within 60 days from the date of issue.

Documents required for granting in-principle approval for listing under Regulation 28(1) of the SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015, for the companies proposing Bonus Issue

1. Certified copy of the resolution passed by the Board of Directors of the Company approving the bonus issue.
2. Certified true copy of the notice sent to shareholders of the Company for the proposed Bonus Issue.
3. Certified copy of the resolution passed by the shareholders of the Company approving the Bonus issue.
4. Copy of Shareholders resolution for increase in authorised capital in case the existing authorised share capital is insufficient to accommodate the Bonus Issue.
5. Statement of total bonus entitlement as per the existing capital, bonus shares to be allotted and shares kept in abeyance, if any to be given by the Company Secretary.
6. Certified true copy of the amended copy of the Memorandum and Articles of Association of the Company. In case the Memorandum and Articles of Association is not amended, confirmation from the company regarding the same.
7. Confirmation by the Managing Director/ Company Secretary.
8. Processing fee.
9. Copy of the latest audited annual report/Certificate from Statutory Auditor/Practicing Chartered Accountant for the computation of reserves.
10. Name & Designation of the Contact Person of the Company. Telephone Nos. (landline & mobile) Email address.

Documents required for listing approval for Bonus equity shares issued by the Companies

1. Letter of Application (i.e. by Listed companies applying for listing of further issue) duly completed.
2. Certified true copy of the Board resolution in which the equity shares were allotted.
3. Brief particular of the new securities issued.
4. Shareholding Pattern as per the format prescribed under Regulation 31 of the SEBI (Listing Obligations and Disclosure Requirements), Regulations, 2015 giving details pre and post allotment of bonus shares.
5. Certificate from Statutory Auditors / Practicing Chartered Accountant / Practicing Company Secretary to the effect that the SEBI (ICDR) Regulations, 2018 for bonus issue has been complied with.
6. The details such as date of Board of Directors meeting approving Bonus issue, date of approval of shareholders, last date by which the bonus issue was to be completed as per Regulation 295 and delay in number of days, to be provided if Bonus issue has not been implemented within the time prescribed under Regulation 295 of SEBI (ICDR) Regulations, 2018.
7. Confirmation by the Managing Director/ Company Secretary.
8. Distinctive Nos. and lock-in details of bonus shares allotted against equity shares which are under lock-in.
9. Details of further listing /processing fee remitted.

SEBI (SHARE BASED EMPLOYEE BENEFITS AND SWEAT EQUITY) REGULATIONS, 2021**Introduction**

A company always wants to retain the top talent in the company those already working within the company for the future success of the organization. One of the ways in which companies attract and retain key employees is by rewarding them with equity shares, traditionally, which are called Sweat Equity Shares and through various employee benefits schemes like ESOP. The aim of ESOP or sweat equity is to retain the best employees by offering a good enough carrot.

SEBI (Issue of Sweat Equity) Regulations, 2002 (“Sweat Equity Regulations”) and SEBI (Share Based Employee Benefits) Regulations, 2014 (“SBEB Regulations”) were notified on September 24, 2002 and October 28, 2014 respectively. The Sweat Equity regulations provided framework for issuance of Sweat Equity shares by listed companies and the SBEB Regulations provided framework to regulate Employee Stock Option Scheme, Employee Stock Purchase Scheme and other share based employee benefits.

Further, to improve ease of doing business from a regulatory perspective, it was observed that, both the SBEB Regulations and the Sweat Equity Regulations regulate employee benefits arising out of and relating with the equity shares of listed companies, thus the possibility of merging both such regulations may be explored.

Accordingly, the SEBI constituted the Expert Group to analyze the above proposals, and to provide its recommendations on the following:

- Revisiting the framework of SBEB regulations and suggesting policy change thereto.
- Revisiting the framework of SEBI Sweat equity regulations *vis-à-vis* the Companies Act, 2013 and suggesting policy changes thereto.
- Suggesting, whether it is advisable to combine both the regulations and if so, providing a draft of combined regulations.

The changes in the two regulations and their merger into a single regulation were approved by SEBI in its Board Meeting held on August 06, 2021. **Thereafter, the SEBI (Share Based Employee Benefits and Sweat Equity) Regulations, 2021 (herein referred as “New Regulations”) have been notified and become effective on August 13, 2021.**

Pursuant to this, the SEBI (Share Based Employee Benefits) Regulations, 2014 and SEBI (Issue of Sweat Equity) Regulations, 2002 (herein referred as “Erstwhile Regulations”) stand repealed.

Applicability

The provisions of the SEBI (Share Based Employee Benefits and Sweat Equity) Regulations, 2021 shall apply to the following: -

- (i) employee stock option schemes;
- (ii) employee stock purchase schemes;
- (iii) stock appreciation rights schemes;
- (iv) general employee benefits schemes;
- (v) retirement benefit schemes; and
- (vi) sweat equity shares.

Companies Covered

The provisions of these regulations shall apply to any company whose equity shares are listed on a recognised stock 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.

Non- Applicability

The provisions pertaining to preferential issue as specified in the SEBI (Issue of Capital and Disclosure Requirements) Regulations, 2018 shall not be applicable in case of a company issuing new shares in pursuance and compliance of these regulations except wherever specifically provided for in these regulations.

Important Definitions

- **“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 non-executive 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.

Question: What does the phrase “exclusively working in India or outside India” mean with respect to the definition of “employee” under Regulation 2(1)(i) of SEBI (Share Based Employee Benefits and Sweat Equity) Regulations, 2021

Answer: The phrase “exclusively working in India or outside India” means any employee who is exclusively working with such company, irrespective of whether such person is employed either in India or outside India.

Question: Whether contractual employees are eligible to receive benefits under Share Based Employee Benefits schemes?

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

- **“Scheme”** means a scheme of a company proposing to provide share based benefits to its employees under Chapters III of these regulations, which may be implemented and administered directly by such company or through a trust, in accordance with these regulations.
- **“Secretarial auditor”** means a **company secretary in practice** appointed by a company under rule 8 of the Companies (Meetings of Board and its Powers) Rules, 2014 to conduct secretarial audit pursuant to regulation 24A of the Securities and Exchange Board of India (Listing Obligations and Disclosure Requirements) Regulations, 2015.
- **“Employee stock option scheme or ESOS”** means a scheme under which a company grants employee stock options to employees directly or through a trust.
- **“Employee stock purchase scheme or ESPS”** means a scheme under which a company offers shares to employees, as part of public issue or otherwise, or through a trust where the trust may undertake secondary acquisition for the purposes of the scheme.
- **“General employee benefits scheme or GEBS”** means any scheme of a company framed in accordance with these regulations, dealing in shares of the company or the shares of its listed holding company, for the purpose of employee welfare including healthcare benefits, hospital care or benefits, or benefits in the event of sickness, accident, disability, death or scholarship funds, or such other benefit as specified by such company.

Question: Whether any scheme established with the objective of employee welfare with no share-based benefits, but are holding/dealing shares of the listed company or shares of listed holding company, covered under the scope of SEBI (Share Based Employee Benefits and Sweat Equity) Regulations, 2021?

Answer: General Employee Benefits scheme or GEBS has been defined as any scheme of a company framed in accordance with these regulations, dealing in shares of the company or the shares of its listed holding company, for the purpose of employee welfare including healthcare benefits, hospital care or benefits, or benefits in the event of sickness, accident, disability, death or scholarship funds, or such other benefit as specified by such company. Therefore, any employee welfare scheme holding / dealing in shares of the company or the shares of its listed holding company is covered under the scope of SEBI (Share Based Employee Benefits and Sweat Equity) Regulations, 2021, including the timelines prescribed thereunder.

- **“Retirement benefit scheme or RBS”** means a scheme of a company framed in accordance with these regulations, dealing in shares of the company or the shares of its listed holding company, for providing retirement benefits to the employees subject to compliance with existing rules and regulations as applicable under laws relevant to retirement benefits in India.
- **“Sweat equity shares”** means sweat equity shares as defined in sub-section (88) of section 2 of the Companies Act, 2013.

- **“Appreciation”** means the difference between the market price of the share of a company on the date of exercise of SAR or the date of vesting of SAR, as the case may be, and the SAR price.
- **“Exercise”** means making of an application by an employee to the company or to the trust for issue of shares or appreciation in form of cash, as the case may be, against vested options or vested SARs in pursuance of the schemes covered under Part A or Part C of Chapter III of these regulations, as the case may be.
- **“Exercise period”** means the time period after vesting within which an employee can exercise his/her right to apply for shares against the vested option or appreciation against vested SAR in pursuance of the schemes covered under Part A or Part C of Chapter III of these regulations, as the case may be.
- **“Exercise price”** means the price, if any, payable by an employee for exercising the option or SAR granted to such an employee in pursuance of the schemes covered under Part A or Part C of Chapter III of these regulations, as the case may be.
- **“Grant”** means the process by which the company issues options, SARs, shares or any other benefits under any of the schemes.
- **“Grant date”** means the date on which the compensation committee approves the grant.

*Explanation,—*For accounting purposes, the grant date will be determined in accordance with applicable accounting standards.

- **“Option”** means the option given to an employee which gives such an employee a right to purchase or subscribe at a future date, the shares offered by the company, directly or indirectly, at a pre-determined price.
- **“Option grantee”** means an employee having a right but not an obligation to exercise an option in pursuance of an ESOS.
- **“Relevant date”** means,-
 - (i) in the case of grant, the date of the meeting of the compensation committee on which the grant is made; or
 - (ii) in the case of exercise, the date on which the notice of exercise is given to the company or to the trust by the employee.
- **“Stock appreciation right or SAR”** means a right given to a SAR grantee entitling him to receive appreciation for a specified number of shares of the company where the settlement of such appreciation may be made by way of cash payment or shares of the company.

*Explanation 1,—*A SAR settled by way of shares of the company shall be referred to as equity settled SAR.

*Explanation 2,—*For the purpose of these regulations, any reference to stock appreciation right or SAR shall mean equity settled SARs and does not include any scheme which does not, directly or indirectly, involve dealing in or subscribing to or purchasing, securities of the company.

- **“Stock appreciation right scheme or SAR scheme”** means a scheme under which a company grants SAR to employees.
- **“SAR grantee”** means an employee to whom a SAR is granted.
- **“SAR price”** means the base price defined on the grant date of SAR for the purpose of computing appreciation.
- **“Trust”** means a trust established under the provisions of the Indian Trusts Act, 1882 including any statutory modification or re-enactment thereof, for implementing any of the schemes covered by these regulations.

- “**Vesting**” means the process by which the employee becomes entitled to receive the benefit of a grant made to him/her under any of the schemes.
- “**Vesting period**” means the period during which the vesting of option, SAR or a benefit granted under any of the schemes takes place.

SCHEMES—IMPLEMENTATION AND PROCESS

Implementation of Schemes through Trust

1. A company may implement a scheme(s) either directly or by setting up an irrevocable trust(s). If the scheme is to be implemented through a trust, the same has to be decided upfront at the time of taking approval of the shareholders for setting up the scheme(s).

However, if prevailing circumstances so warrant, the company may change the mode of implementation of the scheme subject to the condition that a fresh approval of the shareholders by a special resolution is obtained prior to implementing such a change and that such a change is not prejudicial to the interests of the employees.

Further it is provided that if the scheme(s) involves secondary acquisition or gift or both, then it shall be mandatory for the company to implement such scheme(s) through a trust(s).

2. A company may implement several schemes as permitted under these regulations through a single trust.

However, such single trust shall keep and maintain-

- proper books of account;
- records and documents;

for each such scheme so as to explain its transactions and to disclose at any point of time the financial position of each scheme and in particular give a true and fair view of the state of affairs of each scheme.

3. The trust deed, under which the trust is formed, shall contain provisions as specified in Part A of Schedule – I of these regulations and such trust deed and any modifications thereto shall be mandatorily filed with the recognised stock exchange(s) in India where the shares of the company are listed.

According to Part A on “Minimum Provisions in Trust Deed” under Schedule I the trust deed shall, inter alia, cover the following:

- Details of the trust, include the Name of the trust; Object of the trust; Details of settlor; Details of scheme(s) administered; Source(s) of funds; Description of the manner in which the trust funds shall be used for meeting the objects of the trust; Description of the classes of beneficiaries along with their rights and obligations; Details of trustee(s).
- Powers and duties of trustee(s), including:
 - To frame rules for administration of the scheme(s) in compliance with the scheme documents, object(s) of the trust and these regulations;
 - To maintain books of account of the trust as required under law including these regulations.
- Provisions for dissolution of the trust.
- Trust deed shall provide that it would be the duty of the trustees to act in the interest of employees who are beneficiaries of the trust and subject to provisions of these regulations, it shall not act in any manner or include any provision in the trust deed that would be detrimental to the interests of the beneficiaries.

- Such other clauses which are necessary for safeguarding the interests of the beneficiaries.
4. Any person can be appointed as a trustee of the trust, except in cases where such person—
 - i. is a director, key managerial personnel or promoter of the company or its group company including its holding, subsidiary or associate company or any relative of such director, key managerial personnel or promoter; or
 - ii. beneficially holds ten percent or more of the paid-up share capital or the voting rights of the company.

However, where individual(s) or “one person company” as defined under the Companies Act, 2013 is appointed as trustee(s), there shall be a minimum of two such trustees, and in case a corporate entity is appointed as a trustee, then it may be the sole trustee.

5. The trustees of a trust, which is governed under these regulations, shall not vote in respect of the shares held by such trust, so as to avoid any misuse arising out of exercising such voting rights.
6. The trustee should ensure that the requisite approval from the shareholders has been obtained by the company in order to enable the trust to implement the scheme(s) and undertake secondary acquisition for the purposes of the scheme(s).
7. The trust shall not deal in derivatives and shall undertake only delivery-based transactions for the purposes of secondary acquisition as permitted by these regulations.
8. Subject to the requirements of the Companies Act, 2013 read with Companies (Share Capital and Debenture) Rules, 2014, as amended from time to time, as may be applicable, the company may lend monies to the trust on appropriate terms and conditions to acquire the shares either through new issue or secondary acquisition, for the purpose of implementation of the scheme(s).
9. For the purpose of disclosures to the recognised stock exchange, the shareholding of the trust shall be shown as “non-promoter and non-public” shareholding.

Explanation.—The shares held by the trust shall not form part of the public shareholding which needs to be maintained at a minimum of twenty five per cent as prescribed under the Securities Contracts (Regulation) Rules, 1957.

10. Secondary acquisition in a financial year by the trust shall not exceed two per cent of the paid up equity capital of the company as at the end of the previous financial year.
11. The total number of shares under secondary acquisition held by the trust shall at no point of time exceed the below mentioned limits as a percentage of the paid up equity capital of the company as at the end of the financial year immediately prior to the year in which the shareholders’ approval is obtained for such secondary acquisition:

Sl. No.	Particulars	Limit
A	For the schemes enumerated in Part A (ESOS), Part B (ESPS) or Part C (SAR) of Chapter III of these regulations	5%
B	For the schemes enumerated in Part D (GEBS), or Part E (RBS) of Chapter III of these regulations	2%
C	For all the schemes in aggregate	5%

12. The unappropriated inventory of shares which are not backed by grants, acquired through secondary acquisition by the trust under Part A, Part B or Part C of Chapter III of these regulations, shall be appropriated within a reasonable period which shall not extend beyond the end of the subsequent financial year, or the second subsequent financial year subject to approval of the compensation committee/nomination and remuneration committee for such extension to the second subsequent financial year.
13. The trust shall be required to hold the shares acquired through secondary acquisition for a minimum period of six months except where they are required to be transferred in the circumstances enumerated in these regulations, whether off-market or on the platform of recognised stock exchange.
14. The trust shall be permitted to undertake off-market transfer of shares only under the following circumstances: -
 - (a) transfer to the employees pursuant to scheme(s);
 - (b) while participating in an open offer under the Securities and Exchange Board of India (Substantial Acquisition of Shares and Takeovers) Regulations, 2011 or while participating in a buy-back, delisting or any other exit offered by the company generally to its shareholders.
15. The trust shall not become a mechanism for trading in shares and hence shall not sell the shares in secondary market except under the following circumstances:
 - (a) to enable the employee to fund the payment of the exercise price, the amount necessary to meet his/her tax obligations and other related expenses pursuant to exercise of options granted under the ESOS;
 - (b) on vesting or exercise, as the case may be, of SAR under the scheme covered by Part C of Chapter III of these regulations;
 - (c) in case of emergency for implementing the schemes covered under Part D and Part E of Chapter III of these regulations, and for this purpose –
 - (i) the trustee(s) shall record the reasons for such sale; and
 - (ii) money so realised on sale of shares shall be utilised within a definite time period as stipulated under the scheme or trust deed.
 - (d) participation in buy-back or open offers or delisting offers or any other exit offered by the company generally to its shareholders, if required;
 - (e) for repaying the loan, if the unappropriated inventory of shares held by the trust is not appropriated within the timeline as provided above;
 - (f) winding up of the scheme(s); and
 - (g) based on approval granted by the Board to an applicant, for the reasons recorded in writing in respect of the schemes covered by Part A or Part B or Part C of Chapter III of these regulations, upon payment of a non-refundable fee of rupees one lakh to the Board along with the application by way of direct credit in the bank account through NEFT/RTGS/IMPS or any other mode allowed by the Reserve Bank of India.
16. The trust shall be required to make disclosures and comply with the other requirements applicable to insiders or promoters under the Securities and Exchange Board of India (Prohibition of Insider Trading) Regulations, 2015 or any modification or re-enactment thereto.

Eligibility Criteria

An employee shall be eligible to participate in the schemes of the company as determined by the compensation committee.

Explanation – 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, commissions, other incentives, etc. can be accepted by the director from the company.
- (ii) the institution nominating its employee as a director of the company shall file a copy of the contract or agreement with the said company, which shall, in turn file the copy with all the recognised 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.

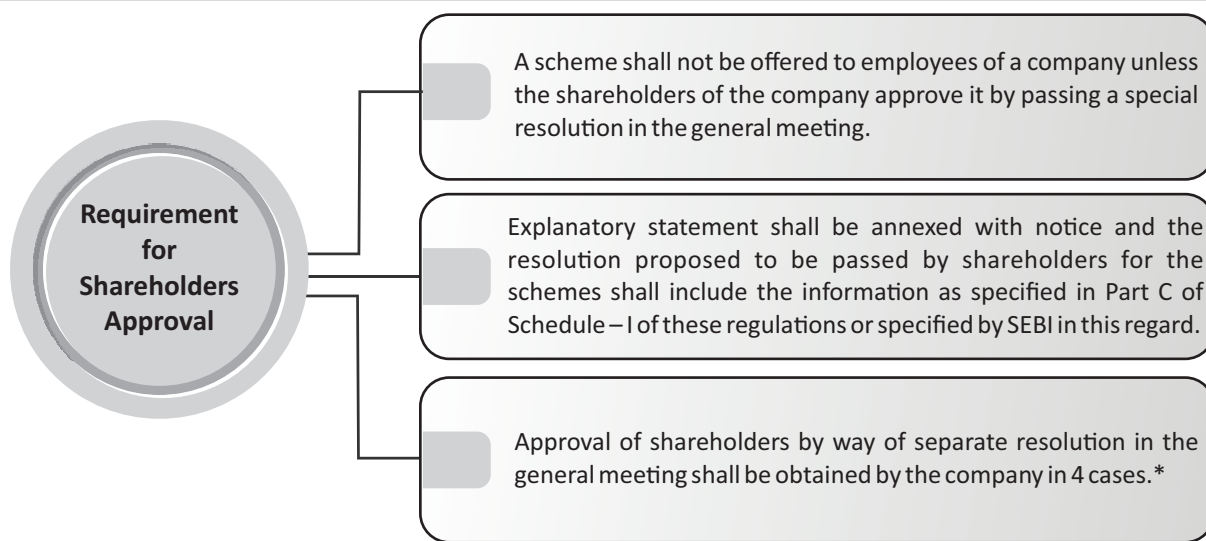
Compensation Committee

- (1) A company shall constitute a compensation committee for administration and superintendence of the schemes. Where the scheme is being implemented through a trust the compensation committee shall delegate the administration of such scheme(s) to the trust.
- (2) The compensation committee shall be a committee of such members of the Board of Directors of the company as provided under regulation 19 of the SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015, as amended from time to time. Provided that a company may also opt to designate its nomination and remuneration committee as the compensation committee for the purposes of these regulations.
- (3) The compensation committee shall, inter alia, formulate the detailed terms and conditions of the schemes which shall include the provisions as specified in Part B of Schedule – I of these regulations.

According to Part B of Schedule – I of these regulations the detailed terms and conditions of the schemes which shall, inter alia, include the provisions such as the quantum of options, SARs, shares or benefits as the case may be, per employee and in aggregate under a scheme; the kind of benefits to be granted under a scheme; the conditions under which options, SARs, shares or other benefits as the case may be, may vest in employees and may lapse in case of termination of employment for misconduct; the exercise period within which the employee can exercise the options or SARs and that options or SARs would lapse on failure to exercise the same within the exercise period etc.

- (4) The compensation committee shall frame suitable policies and procedures to ensure that there is no violation of securities laws including the SEBI (Prohibition of Insider Trading) Regulations, 2015 and the SEBI (Prohibition of Fraudulent and Unfair Trade Practices Relating to the Securities Market) Regulations, 2003, as amended from time to time, by the trust, the company and its employees, as may be applicable.

Shareholders Approval



*Approval of shareholders by way of separate resolution in the general meeting shall be obtained by the company in case of:

- Secondary acquisition for implementation of the schemes. Such approval shall mention the percentage of secondary acquisition (subject to limits specified under these regulations) that could be undertaken;
- Secondary acquisition by the trust in case the share capital expands due to capital expansion undertaken by the company including preferential allotment of shares or qualified institutions placement, to maintain the five percent cap as prescribed in these regulations of such increased capital of the company;
- Grant of option, SAR, shares or other benefits, as the case may be, to employees of subsidiary or holding company;
- Grant of option, SAR, shares or benefits, as the case may be, to identified employees, during any one year, equal to or exceeding one per cent. of the issued capital (excluding outstanding warrants and conversions) of the company at the time of grant of option, SAR, shares or incentive, as the case may be.

According to Part C of Schedule – I of these regulations, the explanatory statement to the notice and the resolution proposed to be passed for the schemes in general meeting shall, inter alia, contain the information such as brief description of the scheme(s); the total number of options, SARs, shares or benefits, as the case may be, to be offered and granted; identification of classes of employees entitled to participate and be beneficiaries in the scheme(s); requirements of vesting and period of vesting; maximum period within which the options / SARs / benefits shall be vested; exercise price, SAR price, purchase price or pricing formula etc.

Question: What is the process to grant benefits to employees of group company including subsidiary or its associate companies, joint ventures or holding company? Are shareholders required to approve the grant of option, SAR, shares or other benefits, as the case may be, to employees of such companies?

Answer: Yes, as per Regulation 6(3)(c) of the SEBI (Share Based Employee Benefits and Sweat Equity) Regulations, 2021 regulations, shareholders are required to approve the grant of option, SAR, shares or other benefits, as the case may be, to employees of group company including subsidiary or its associate companies, joint ventures or holding company.

Variation of Terms of the Schemes

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

Winding Up of the Schemes

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

Non-Transferability

- Option, SAR or any other benefit granted to an employee under the regulations shall not be transferable to any person.
- No person, other than the employee to whom the option, SAR or other benefit is granted, shall be entitled to the benefit arising out of such option, SAR or other benefit. However, in case of ESOS or SAR, subject to applicable laws, the company or the trustee may fund or permit the empanelled stock brokers to make suitable arrangements to fund the employee for payment of exercise price, the amount necessary to meet his/her tax obligations and other related expenses pursuant to exercise of options granted under the ESOS or SAR and such amount shall be adjusted against the sale proceeds of some or all the shares of such employee.
- The option, SAR, or any other benefit granted to the employee shall not be pledged, hypothecated, mortgaged or otherwise alienated in any other manner.
- In the event of death of the employee while in employment, all the options, SAR or any other benefit granted under a scheme to him/her till his/her death shall vest, with effect from the date of his/her death, in the legal heirs or nominees of the deceased employee, as the case may be.
- In case the employee suffers a permanent incapacity while in employment, all the options, SAR or any other benefit granted to him/her under a scheme as on the date of permanent incapacitation, shall vest in him/her on that day.
- In the event of resignation or termination of an employee, all the options, SAR or any other benefit which are granted and yet not vested as on that day, shall expire. However, an employee shall, subject to the terms and conditions formulated by the compensation committee, be entitled to retain all the vested options, SAR or any other benefit covered by these regulations.

- In the event that an employee, who has been granted benefits under a scheme, is transferred or deputed to an associate company prior to vesting or exercise, the vesting and exercise as per the terms of grant shall continue in case of such transferred or deputed employee even after the transfer or deputation.
- In the event that an employee who has been granted benefits under a scheme, is transferred pursuant to scheme of arrangement, amalgamation, merger or demerger or continued in the existing company, prior to the vesting or exercise, the treatment of options in such case shall be specified in such scheme of arrangement, amalgamation, merger or demerger provided that such treatment shall not be prejudicial to the interest of the employee.

Listing

In case a new issue of shares is made under any scheme, shares so issued shall be listed immediately on all recognised stock exchange(s) where the existing shares are listed, subject to the following conditions:

- (a) The scheme is in compliance with these regulations;
- (b) A statement, as specified by SEBI in this regard, is filed and the company obtains an in-principle approval from the recognised stock exchange(s);
- (c) As and when an exercise is made, the company notifies the concerned recognised stock exchange(s) as per the statement as specified by SEBI in this regard.

Schemes implemented by unlisted companies

The shares arising after the IPO of an unlisted company, out of options or SAR granted under any scheme prior to its IPO to the employees, shall be listed immediately upon exercise on all the recognised stock exchanges where the shares of the company are listed subject to compliance with the SEBI (Issue of Capital and Disclosure Requirements) Regulations, 2018 and wherever applicable, sub-regulation (1) of regulation 12 of these regulations.

Compliances and conditions

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

- (i) Such pre-IPO scheme is in conformity with these regulations; and
- (ii) Such pre-IPO scheme is ratified by its shareholders subsequent to the IPO. Provided that the ratification under clause (ii) may be done any time prior to grant of new options or shares or SAR under such pre-IPO scheme.

Change shall not 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. For listing of shares issued pursuant to ESOS, ESPS or SAR, the company shall obtain the in-principle approval of the recognized stock exchanges where it proposes to list the said shares prior to the grant of options or SARs.

When the holding company issues option, share, SAR or benefits to the employees 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. 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 merchant banker for the implementation of schemes covered by these regulations till the stage of obtaining in-principle approval from the recognized stock exchanges.

Certificate from Auditors

In the case of every company which has passed a resolution for the scheme(s) under these regulations, the Board of Directors shall at each annual general meeting place before the shareholders a certificate from the **secretarial auditors** of the company that the scheme(s) has been implemented in accordance with these regulations and in accordance with the resolution of the company in the general meeting.

Disclosures

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

Accounting policies

Any company implementing any of the share based schemes shall follow the requirements including the disclosure requirements of the Accounting Standards prescribed by the Central Government in terms of section 133 of the Companies Act, 2013 including any 'Guidance Note on Accounting for employee share-based Payments' issued in that regard from time to time.

ADMINISTRATION OF SPECIFIC SCHEMES

Employee Stock Option Scheme (ESOS)

Administration and Implementation	<ul style="list-style-type: none"> ● An ESOS shall contain the details of the manner in which the scheme will be implemented and operated. ESOS shall not be offered unless the disclosures, as specified by SEBI in this regard, are made by the company to the prospective option grantees.
Pricing	<ul style="list-style-type: none"> ● The company granting options to its employees pursuant to an ESOS shall be free to determine the exercise price subject to conforming to the accounting policies specified in these regulation.
Vesting Period*	<ul style="list-style-type: none"> ● There shall be a minimum vesting period of one year in case of ESOS. ● The company may specify the lock-in period for the shares issued pursuant to exercise of option.
Rights of the option holder	<ul style="list-style-type: none"> ● An employee shall not have right to receive any dividend or to vote or in any manner enjoy the benefits of a shareholder in respect of option granted to him/her, till shares are issued upon exercise of option.
Consequence of failure to exercise option	<ul style="list-style-type: none"> ● The amount paid by the employee, if any, at the time of grant, vesting or exercise of option, - <ul style="list-style-type: none"> ■ may be forfeited by the company if the option is not exercised by the employee within the exercise period; or ■ 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.

Note :

*In regard to Vesting period, -

- Where options are granted by a company under an ESOS in lieu of options held by an employee under an ESOS in another company which has merged, demerged, arranged or amalgamated with the first mentioned company, the period during which the options granted by the transferor company were held by such employee shall be adjusted against the minimum vesting period.
- In the event of death or permanent incapacity of an employee, the minimum vesting period of one year shall not be applicable and in such instances, the options shall vest in terms of sub-regulation (4) of regulation 9 of these regulations, on the date of the death or permanent incapacity.

Employee Stock Purchase Scheme (ESPS)

Administration and Implementation	Pricing and Lock-in
<ul style="list-style-type: none"> ● An ESPS scheme shall contain the details of the manner in which the scheme will be implemented and operated. 	<ul style="list-style-type: none"> ● A company may determine the price of shares to be issued under an ESPS, provided they conform to the provisions of accounting policies under these regulation. ● Shares issued under an ESPS shall be locked-in for a minimum period of one year from the date of allotment.* ● If ESPS is part of a public issue and the shares are issued to employees at the same price as in the public issue, the shares issued to employees pursuant to ESPS shall not be subject to lock-in.

*Note :

In regard to lock-in-

- Where shares are allotted by a company under an ESPS in lieu of shares acquired by the employee under an ESOS in another company which has merged or amalgamated with the first mentioned company, the lock-in period already undergone in respect of shares of the transferor company shall be adjusted against the lock-in period.
- In the event of death or permanent incapacity of an employee, the requirement of lock-in shall not be applicable from the date of death or permanent incapacity.

Stock Appreciation Rights Scheme (SAR Scheme)

- A SAR scheme shall contain the details of the manner in which the scheme will be implemented and operated;
- A company shall have the freedom to implement cash settled or equity settled SAR scheme;
- No SAR shall be offered unless the disclosures, as specified by SEBI in this regard, are made by the company to the prospective SAR grantees.

Administration and Implementation

- There shall be a minimum vesting period of one year in case of SAR scheme.

Vesting

- 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/her.

Rights of the SAR holder

Note :

With regard to Administration and implementation-

- 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.

With regard to Vesting-

- In a case where SAR is granted by a company under a SAR scheme in lieu of SAR held by the employee 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.
- In the event of death or permanent incapacity, the minimum vesting period of one year shall not be applicable and in such instances, the options shall vest on the date of death or permanent incapacity.

General Employee Benefits Scheme (GEBS)

Administration and Implementation

- (1) GEBS shall contain the details of the scheme and the manner in which the scheme shall be implemented and operated.

- (2) The shares of the company or shares of its listed holding company shall not exceed ten per cent of the book value or market value or fair value of the total assets of the scheme, whichever is lower, as appearing in its latest balance sheet (whether audited or limited reviewed) for the purposes of GEBS.
- (3) The secretarial auditor of the company shall certify the above mentioned point (2) compliance at the time of adoption of such balance sheet by the company.

Retirement Benefit Scheme (RBS)

Administration and Implementation

- (1) Retirement benefit scheme may be implemented by a company subject to compliance with these regulations and provisions of any other law in force in relation to retirement benefits.
- (2) The retirement benefit scheme shall contain the details of the benefits under the scheme and the manner in which the scheme shall be implemented and operated.
- (3) The shares of the company or shares of its listed holding company shall not exceed ten per cent of the book value or market value or fair value of the total assets of the scheme, whichever is lower, as appearing in its latest balance sheet (whether audited or limited reviewed) for the purposes of RBS.
- (4) The secretarial auditor of the company shall certify compliance with above mentioned point (3) at the time of adoption of such balance sheet by the company.

Question: What is the treatment to the options, SAR or other benefits which are granted and not vested to the directors who have vacated the office due to retirement?

Answer: Subject to the terms of the company's policies, all grants, SARs or other benefits would continue to vest in accordance with the respective vesting schedules even after the cessation of directorship due to retirement.

PROVISIONS PERTAINING TO ESOP/ESPS UNDER THE SEBI (LISTING OBLIGATIONS AND DISCLOSURE REQUIREMENTS) REGULATIONS, 2015

Regulation 17(6) of the SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 provides that the board of directors shall recommend all fees or compensation, if any, paid to non-executive directors, including independent directors and shall require approval of shareholders in general meeting. Further provided that the approval of shareholders mentioned above, shall specify the limits for the maximum number of stock options that may be granted to non-executive directors, in any financial year and in aggregate.

Regulation 30 of the SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 prescribed that every listed entity shall make disclosures of any events or information which, in the opinion of the board of directors of the listed company, is material. Events specified in Para A of Part A of Schedule III are deemed to be material events and listed entity shall make disclosure of such events.

However, the listed entity shall make disclosure of events specified in Para B of Part A of Schedule III, based on application of the guidelines for materiality. Events specified in Para B of Part A of Schedule III inter alia cover the option to purchase securities including ESOP/ESPS scheme.

Options to purchase securities including any ESOP/ESPS Scheme shall be disclosed to the stock exchange upon application of the guidelines for materiality.

In terms of the SEBI circular dated September 09, 2015, the details which a listed entity need to disclose for

events on which the listed entity may apply materiality in terms of Para B of Part A of Schedule III of Listing Regulations are:

- a) brief details of options granted;
- b) whether the scheme is in terms of SEBI (SBEB) Regulations, 2014 (if applicable);
- c) total number of shares covered by these options;
- d) pricing formula;
- e) options vested;
- f) time within which option may be exercised;
- g) options exercised;
- h) money realized by exercise of options;
- i) the total number of shares arising as a result of exercise of option;
- j) options lapsed;
- k) variation of terms of options;
- l) brief details of significant terms;
- m) subsequent changes or cancellation or exercise of such options;
- n) diluted earnings per share pursuant to issue of equity shares on exercise of options.

The listed entity shall first disclose to stock exchange of all events or information which are material, as soon as reasonably possible and not later than 30 minutes from the closure of the meeting of the board of directors in which the decision pertaining to the event has been taken.

ESPS/ESOS/SARS/GEBS/RBS – PRE ISSUE AND POST ISSUE FORMALITIES

Pre-Issue Formalities

Checklist - Prior In-principle under Regulation 28(1) of the SEBI (Listing Obligations and Disclosure Requirements), Regulations, 2015 for ESPS/ESOS/SARS/GEBS/RBS:

1. Certified copy of Stock Option/Stock Purchase Scheme/ Stock Appreciation Rights Scheme/ General Employee Benefits Scheme/ Retirement Benefit Schemes, certified by the Company Secretary.
2. Certified copy of statement to be filed with the Stock Exchange as required under Regulation 10(b) of the SEBI (Share Based Employee Benefits and Sweat Equity) Regulations, 2021.
3. Certified true copy of the notice of AGM/EGM for approving the Scheme/for amending the Scheme/ for approving grants under Regulation 6 of the SEBI (Share Based Employee Benefits and Sweat Equity) Regulations, 2021, certified by the Company Secretary.
4. Certified true copy of special resolution along with the explanatory statement passed by the shareholders of the Company approving/ amending the Scheme.
5. Certificate of Secretarial Auditors on compliance with SEBI (Share Based Employee Benefits and Sweat Equity) Regulations, 2021.
6. Certificate of Merchant Banker on compliance with SEBI (Share Based Employee Benefits and Sweat Equity) Regulations, 2021.

7. List of Promoters as defined under the SEBI (Share Based Employee Benefits and Sweat Equity) Regulations, 2021.
8. Specimen copy of Share certificate (where shares are issued in physical form).
9. Confirmation from the Company.
10. Undertakings as required by SEBI.
11. Reconciliation statement.
12. Certified true copy of irrevocable trust deed.
13. Processing fees.

Post-Issue Formalities

Documents required for listing of equity shares issued pursuant to exercise of options granted under ESPS/ ESOS/ SARS/GEBS/RBS:

1. Letter of application and listing application.
2. Certified true copy of Statement as per the format prescribed under Regulation 10(c) of SEBI (Share Based Employee Benefits and Sweat Equity) Regulations, 2021.
3. A certified copy of the resolution passed by the Board of Directors in which the company has allotted these shares.
4. Certificate for receipt of money from the Statutory Auditors/Practicing Company Secretary/ Practicing Chartered Accountant specifically certifying that the company has received the application/allotment monies from the applicants of these shares. For other than ESPS, in case the company opt to submit the above certificate on a quarterly basis the same should be mentioned in the application. Further, the company should ensure submission of quarterly certificate from the Statutory Auditors/Practicing Company Secretary/ Practicing Chartered Accountant specifically certifying that the company has received the application/allotment monies from the applicants of these shares.
5. List of allottees specifying the name of the allottee, number of shares allotted.
6. NSDL/CDSL credit and/or dispatch of physical certificate confirmation by the R & T agent.
7. Certificate from statutory auditors that the issue is in compliance with SEBI (SBEB) Regulations, 2021 and the shares are under lock-in as per the SEBI (Share Based Employee Benefits and Sweat Equity) Regulations, 2021.
8. Statement of reconciliation from the Company Secretary/Compliance Officer/Authorised signatory showing number of shares for which the in-principle approval was taken and no. of shares allotted, date of allotment and the balance outstanding.
9. Undertaking from the Company Secretary/Compliance Officer/ Managing Director of the issuer as per the following:
 - (a) The Company has complied with the provisions of SEBI (Share Based Employee Benefits and Sweat Equity) Regulations, 2021 as amended from time to time and also with SEBI circulars issued thereunder.

- (b) The company has complied with all the legal and statutory formalities and no statutory authority has restrained the company from issuing and allotting the above referred shares.
 - (c) The Company has received the share application money (against exercise of options granted under the <Name of the Scheme under which such options were granted> of the Company.
 - (d) The company or its promoters or whole-time directors are not in violation of the provisions of Regulation 34 of the SEBI Delisting Regulations, 2021.
 - (e) We hereby confirm that the company, its promoters, its directors are not in violation of the restrictions imposed by SEBI under SEBI circular no. SEBI/HO/ MRD/DSA/CIR/P/2017/92 dated August 01, 2017.
10. Additional details to be provided in case of Listing of ESOS
- a) Details of employees who have been granted options / shares equal to or in excess of 5% of share capital
 - b) Confirmation as to whether any Directors have been issued shares pursuant to SEBI (SBEB) Regulations, 2014. If so, details of the issue to the Directors
11. Additional Confirmation from Company in case of Listing of ESPS
- a) No employee who is a promoter or belongs to the promoter group is eligible to participate in the ESPS
 - b) No director of the company either by himself or through his relatives or through any body corporate, directly or indirectly holds more than 10% of the outstanding equity shares of the company are eligible to participate in the ESPS
 - c) The shares allotted to NRIs are in accordance with RBI Guidelines
 - d) The shares issued rank pari-passu with the existing equity shares of the Company including dividend
12. Applicable Additional Listing Fees

PROCEDURE FOR ISSUING ESOP BY A LISTED COMPANY

- Prepare the draft ESOP plan in accordance with the Companies Act, 2013 and Rules and SEBI (Share Based Employee Benefits and Sweat Equity) Regulations, 2021;
- Send notice of Board Meeting to all the directors atleast 7 days before the date of Board Meeting;
- Hold Board Meeting to pass the resolution for the issuance of shares through ESOP, appoint the Merchant Banker and approve the notice of the General Meeting for shareholders' approval;
- File the MGT-14 form with the Registrar of Companies within 30 days of passing the board resolution;
- Send a notice of General Meeting to the shareholders, Directors and Auditors at least 21 clear days before the date of General Meeting;
- Hold General Meeting for approval of shareholders and pass the special resolution for the issuance of shares under the ESOP to the employees;
- File the MGT-14 form with the Registrar of Companies within 30 days of passing the special resolution;

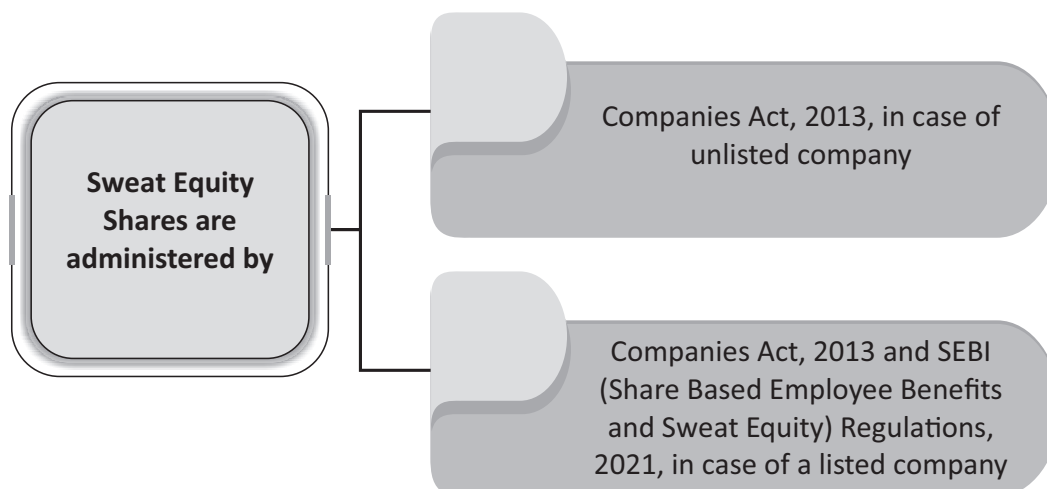
- Make an application to the stock exchange for obtaining in-principal approval of the stock exchange;
- Issue of letter of grant of option to the eligible employees along with the letter of acceptance of option;
- On receipt of letter of acceptance of option along with upfront payment (if any), from the employee issue the option certificates;
- After expiry of vesting period, not less than one year, the options shall vest in the employee;
- At that time, the Company shall issue a letter of vesting along with the letter of exercise of options;
- Receipt to letter of exercise from the employee;
- Send notice of Board Meeting to all the directors atleast 7 days before the date of Board Meeting;
- Hold a Board Meeting at the suitable interval during the exercise period for allotment of shares;
- 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 of the shares from the stock exchange.

ISSUE OF SWEAT EQUITY SHARES

'Sweat equity shares' are such equity shares, which are issued by a company to its directors or employees at a discount or for consideration, other than cash, for providing their know-how or making available rights in the nature of intellectual property rights or value additions, by whatever name called.

Sweat equity shares refers to equity shares given to the company's employees on favourable terms, in recognition of their work.

Sweat equity shares refers to equity shares given to the company's employees on favourable terms, in recognition of their work. Sweat equity shares is one of the modes of making share based payments to employees of the company. The issue of sweat equity shares allows the company to retain the employees by rewarding them for their services. Sweat equity shares rewards the beneficiaries by giving them incentives in lieu of their contribution towards the development of the company.



Which companies can issue sweat equity shares?

Any company can issue sweat equity shares like:

- One person Company
- Private Company
- Public Company
- Section 8 Company
- Listed/Unlisted Company

Difference between ESOP and Sweat Equity

Under ESOP, an employee has the right to exercise the option to receive allotment of shares of the Company by paying exercise price upon vesting of an option which cannot take place earlier than one year from the date of grant of the options. Under Sweat Equity, the employee receives immediate allotment of shares without any vesting requirement.

While ESOP is a deferred form of compensation, sweat equity shares provide immediate entitlement of the benefit extended.

A. Provisions pertaining to Sweat Equity Shares under the Companies Act, 2013

Section 2 (88) of the Companies Act, 2013 defines “sweat equity shares” means such equity shares as are issued by a company to its directors or employees at a discount or for consideration, other than cash, for providing their know-how or making available rights in the nature of intellectual property rights or value additions, by whatever name called.

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 recognized 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 Rule 8 of the Companies (Share Capital and Debenture) Rules, 2014.
- (d) The rights, limitations, restrictions and provisions as are for the time being applicable to equity shares shall be applicable to the sweat equity shares issued under this section and the holders of such shares shall rank *pari passu* with other equity shareholders.

The expressions “Employee” means-

- (a) a permanent employee of the company who has been working in India or outside India; or
- (b) a director of the company, whether a whole time director or not; or
- (c) an employee or a director as defined in sub-clauses (a) or (b) above of a subsidiary, in India or outside India, or of a holding company of the company.

Rule 8 of the Companies (Share Capital and Debentures) Rules, 2014 provides that a company other than a listed company, which is not required to comply with the SEBI Regulations on sweat equity, shall not issue sweat equity shares to its directors or employees at a discount or for consideration other than cash, for their providing know-how or making available rights in the nature of intellectual property rights or value additions, by whatever name called, unless the issue is authorised by a special resolution passed by the company in general meeting.

The Companies (Share Capital and Debentures) Rules, 2014 have defined 'value additions' to mean actual or anticipated economic benefits derived or to be derived by the company from an expert or a professional for providing know-how or making available rights in the nature of intellectual property rights, by such person to whom sweat equity is being issued for which the consideration is not paid or included in the normal remuneration payable under the contract of employment, in the case of an employee.

Whether Issue of sweat equity shares can be in the form of preferential Issue?

Issue of Sweat Equity Shares is not a 'preferential issue'. As per regulation 2(1)(nn) of SEBI (ICDR) Regulations, 2018 which gives the meaning of a preferential issue excludes an issue of sweat equity shares there from, which means issue of sweat equity shares is not a preferential issue within the meaning of preferential issue. Further, Rule 8 (13) of the Companies (Share Capital and Debentures) Rules, 2014, clearly excludes issue of sweat equity shares from the definition of preferential offer.

B. Provisions pertaining to Sweat Equity Shares under the SEBI (Share Based Employee Benefits and Sweat Equity) Regulations, 2021

Applicability

The Chapter IV of the SEBI (Share Based Employee Benefits and Sweat Equity) Regulations, 2021 which deal with 'Issue of Sweat Equity by a Listed Company' shall not apply to an unlisted company. However, an unlisted company coming out with initial public offer and seeking listing of its securities on the recognized stock exchange, pursuant to issue of sweat equity shares, shall comply with the SEBI (Issue of Capital and Disclosure Requirement) Regulations, 2018.

Definition of employee in relation to issue of sweat equity shares

The term 'employee' means,

- (i) an employee of the company working in India or abroad; or
- (ii) a director of the company whether a whole time director or not.

Issue of sweat equity shares to employees

A company whose equity shares are listed on a recognised stock exchange may issue sweat equity shares in accordance with section 54 of the Companies Act, 2013 and these regulations to its employees for their providing know-how or making available rights in the nature of intellectual property rights or value additions, by whatever name called.

Maximum quantum of sweat equity shares

A company shall not issue sweat equity shares for more than fifteen percent of the existing paid up equity share capital in a year. However, the issuance of sweat equity shares in the company shall not exceed twenty five percent of the paid up equity share capital of the company at any time.

Further, a company listed on Innovators Growth Platform shall be permitted to issue not more than fifteen percent

of the paid up equity share capital in a financial year subject to overall limit not exceeding fifty percent of the paid up equity share capital of the company, up to ten years from the date of its incorporation or registration.

Special Resolution

- (1) For the purposes of passing a special resolution under Section 54(1)(a) of the Companies Act, 2013, the explanatory statement to be annexed to the notice for the general meeting pursuant to section 102 of the Companies Act, 2013 shall contain disclosures as specified in the Schedule – II of these regulations.

Schedule II provides that the explanatory statement to the notice and the resolution proposed to be passed in the general meeting for approving the issuance of sweat equity shall, inter alia, contain the following information:

- a) The total number of shares to be issued as sweat equity.
 - b) The current market price of the shares of the company.
 - c) The valuation of know-how or intellectual property rights or value addition to be received from the employee or director along with the valuation report / basis of valuation.
 - d) The names of the employees or directors or promoters to whom the sweat equity shares shall be issued and their relationship with the company.
 - e) The consideration to be paid for the sweat equity.
 - f) The price at which the sweat equity shares shall be issued.
 - g) Ceiling on managerial remuneration, if any, which will be affected by issuance of such sweat equity.
 - h) A statement to the effect that the company shall conform to the accounting policies as specified by the Board.
 - i) Diluted Earnings Per Share pursuant to the issue of securities to be calculated in accordance with Accounting Standards specified by the Central Government.
- (2) The issue of sweat equity shares to employees who belong to promoter or promoter group shall be approved by way of a resolution passed by a simple majority of the shareholders in general meeting. However, for passing such a resolution, voting through postal ballot and/or e-voting as specified under Companies (Management and Administration) Rules, 2014 shall also be adopted. Further, provided that the promoters/promoter group shall not participate in such resolution.
- (3) Each issue of sweat equity shares shall be voted by a separate resolution.
- (4) The resolution for issue of sweat equity shares shall be valid for a period of not more than twelve months from the date of passing of the resolution.

Pricing of sweat equity shares

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.

Valuation

- (1) The valuation of the know-how or intellectual property rights or value addition shall be carried out by a merchant banker.

- (2) The merchant banker may consult such experts and valuers, as it may deem fit, having regard to the nature of the industry and the nature of the valuation of know-how or intellectual property rights or value addition.
- (3) The merchant banker shall obtain a certificate from an independent chartered accountant certifying that the valuation of the know-how or intellectual property rights or value addition is in accordance with the relevant accounting standards.

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:-

- (a) 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
- (b) where clause (a) is not applicable, it shall be expensed as provided in the relevant accounting standards.

Placing of auditor's certificate before annual general meeting

In the general meeting subsequent to the issue of sweat equity shares, the Board of Directors shall place before the shareholders, a certificate from the secretarial auditor of the company that the issue of sweat equity shares has been made in accordance with these regulations and in accordance with the resolution passed by the company authorizing the issue of such sweat equity shares.

Ceiling on managerial remuneration

The amount of sweat equity shares issued shall be treated as part of managerial remuneration for the purpose of sections 196, 197 and other applicable provisions 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) the sweat equity shares 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.

Lock-in of sweat equity shares

- (1) The sweat equity shares shall be locked in for such period of time as specified in relation to a preferential issue under the SEBI (Issue of Capital and Disclosure Requirements) Regulations, 2018, as amended from time to time.
- (2) The provisions of the SEBI (Issue of Capital and Disclosures Requirements) Regulations, 2018 in respect of public issue in terms of lock-in and computation of promoters' contribution shall apply if a company makes a public issue after it has issued sweat equity shares.

Listing

The sweat equity shares issued by a listed company shall be eligible for listing subject to their issuance being in accordance with these regulations.

Applicability of the SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 2011

Any acquisition of sweat equity shares shall be subject to the provisions of the SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 2011.

General Obligations of the Company

The company shall ensure that –

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

Checklist of documents to be submitted for seeking In-Principle approval to issue and allot sweat equity shares by Listed Company pursuant to SEBI (Share Based Employee Benefits and Sweat Equity) Regulations, 2021

1. Application/ Covering letter from Company seeking Exchange's in-principle approval
2. Copy of Board Resolution inter alia approving the proposed issue of Sweat Equity shares to its Employees
3. Details of Employees and Director who are proposed to be allotted Sweat Equity Shares
4. Copy of Notice for general meeting sent to shareholders seeking their approval for issue of Sweat Equity shares
5. Certified true Copy of "special resolution" passed by the Shareholders of the Company approving the issue of Sweat Equity shares to the employees of the Company. AND/OR

Certified true Copy of "Ordinary resolution" passed by the Shareholders of the Company approving the issue of Sweat Equity shares to the employees belonging to the Promoter/Promoter group of the Company.

However, in this case

- a) for passing such a resolution, voting through postal ballot and/or e-voting as specified under Companies (Management and Administration) Rules, 2014 shall also be adopted
- b) the promoters/promoter group shall not participate in such resolution.
6. Pricing certificate by Statutory Auditor/ Practicing Chartered Accountant/ Practicing Company Secretary.
7. Report from the Merchant Banker as per Regulation 34 of SEBI SBEBSE Regulations pertaining to the valuation of the know-how or intellectual property rights or value addition.

8. Copy of certificate obtained by Merchant Banker from an independent chartered accountant certifying that the valuation of the know-how or intellectual property rights or value addition is in accordance with the relevant accounting standards.
9. Details of prior issue of sweat equity shares done by the issuer if any
10. Copy of latest Annual Report of the Company
11. Confirmation by the Managing Director/ Company Secretary
12. Processing fees

Checklist of documents to be submitted for seeking listing approval for sweat equity shares issued by Listed Company pursuant to SEBI (Share Based Employee Benefits and Sweat Equity) Regulations, 2021 (“SEBI SBEBSE Regulations”)

1. Covering letter from Company seeking Exchange’s approval for listing of sweat equity shares
2. Letter of Application (i.e. by Listed companies applying for listing of sweat equity shares) duly completed.
3. Certified copy of the resolution passed by the shareholders of the Company approving the allotment of sweat equity shares
4. Certified copy of the resolution passed by board of directors for allotment of sweat equity shares
5. Certificate from Statutory Auditor/ Secretarial Auditor/PCA/PCS for receipt of funds confirmation of compliance
6. Shareholding Pattern as per the format prescribed under Regulation 31 of the SEBI (Listing Obligations and Disclosure Requirements), Regulations, 2015 giving details pre and post allotment.
7. Copy of statement disclosing (to be submitted withing seven days of issue of sweat equity shares):
 - (i) number of sweat equity shares issued;
 - (ii) price at which the sweat equity shares are issued;
 - (iii) total amount received towards sweat equity shares;
 - (iv) details of the persons to whom sweat equity shares have been issued; and
 - (v) the consequent changes in the capital structure and the shareholding pattern before and after the issue of sweat equity shares.
8. Confirmation by the Managing Director/ Company Secretary
9. Details of Processing fee/ Additional listing fee

PROCEDURE FOR THE ISSUANCE OF SWEAT EQUITY SHARES

1. Decide before convening a Board Meeting, the number of shares, their current market price and consideration, if any, and the class or classes of directors or employees to whom such of sweat equity shares are proposed to be issued.
2. Send notice of Board Meeting to all the directors atleast 7 days before the date of Board Meeting.
3. Convene a Board Meeting to consider the proposal of issue of sweat equity shares and to fix up the date, time, place and agenda for the General Meeting.

4. File e-form MGT-14 with a copy of board resolution within a period of 30 days of passing of board resolution.
5. Send a notice of General Meeting to the shareholders, Directors and Auditors at least 21 clear days before the date of General Meeting.
6. Hold the General Meeting and pass the Special Resolution by three fourths majority and file a copy of the Special Resolution with the ROC in e-Form MGT-14.
7. Convene Board meeting within 12 months of passing of special resolution to the resolution for allotment of sweat equity shares.
8. File return of allotment in e-form PAS-3 with the ROC within 30 days of the allotment.
9. In case of a listed company, to apply to the stock exchange and obtain necessary listing and trading approval for the shares so allotted.
10. In the General Meeting subsequent to the issue of sweat equity, the Board of Directors shall place before the shareholders, a certificate from the secretarial auditor of the Company that the issue of sweat equity shares has been made in accordance with the regulations and in accordance with the resolution passed by the Company authorizing the issue of such sweat equity shares.

LESSON ROUND-UP

- When a company has accumulated free reserves and is desirous of bridging the gap between the capital and fixed assets, it issues bonus shares to its equity shareholders.
- No issue of bonus shares shall be made by capitalising reserves created by the revaluation of assets.
- As per Section 63(3) of the Companies Act, 2013, the bonus shares shall not be issued in lieu of dividend.
- Rule 14 of Companies (Share Capital and Debentures) Rules, 2014 states that the company which has once announced the decision of its Board recommending a bonus issue, shall not subsequently withdraw the same.
- SEBI has issued regulations for Bonus Issue which are contained in Chapter XI of the SEBI (Issue of Capital and Disclosure Requirements) Regulations, 2018 by listed companies.
- As per Section 62(1) (b) of Companies Act 2013, the Company can offer shares through employee stock option to their employees through special resolution subject to the conditions specified under Rule 12 of Companies (Share Capital and Debentures) Rules, 2014.
- Issue of Employee Stock option by a listed entity is regulated by SEBI (Share Based Employee Benefits and Sweat Equity) Regulations, 2021.
- SEBI has, on 13th August, 2021 notified SEBI (Share Based Employee Benefits and Sweat Equity) Regulations, 2021 for regulation of all schemes by companies for the benefit of their employees involving dealing in shares, directly or indirectly, with a view to facilitate smooth operation of such schemes while preventing any possible manipulation and matters connected therewith or incidental thereto.
- A company may implement the various schemes as prescribed under SEBI (Share Based Employee Benefits and Sweat Equity) Regulations, 2021 either:
 - directly; or
 - by setting up an irrevocable trust(s).

- An employee shall be eligible to participate in the schemes of the company as determined by the compensation committee.
- In case of winding up of the schemes being implemented by a company, the excess monies or shares remaining with the trust after meeting all the obligations, if any, shall be utilised for repayment of loan or by way of distribution to employees as recommended by the compensation committee.
- Section 2 (88) of the Companies Act, 2013 defines “sweat equity shares” means such equity shares as are issued by a company to its directors or employees at a discount or for consideration, other than cash, for providing their know-how or making available rights in the nature of intellectual property rights or value additions, by whatever name called.
- Where the equity shares of the company are listed on a recognized stock exchange, sweat equity shares should be issued in accordance with SEBI (Share Based Employee Benefits and Sweat Equity) Regulations, 2021.
- In case of issue of sweat equity shares, the same shall also be approved by special resolution passed by the company in General Meeting.

GLOSSARY

Exercising the option: The act of buying or selling the underlying asset via the option contract.

Intellectual Property: It is a category of property that includes intangible creations of the human intellect and primarily encompasses copyrights, patents and trademarks. It also includes other types of rights, such as trade secret, publicity rights, moral rights and rights against unfair competition.

Voting Rights: The entitlement of a shareholder to exercise vote in the General Meeting of a company.

Vesting: The process by which the employee becomes entitled to receive the benefit of a grant made to him/her under any of the schemes.

Market Price: The latest available closing price on a recognised stock exchange on which the shares of the company are listed on the date immediately prior to the relevant date.

Secondary Acquisition: Acquisition of existing shares of the company by the trust on the platform of a recognised stock exchange for cash consideration.

TEST YOURSELF

(These are meant for recapitulation only. Answers to these questions are not to be submitted for evaluation)

1. Briefly discuss the procedure for issuing bonus shares by listed company.
2. What are applicability and non-applicability of the SEBI (Share Based Employee Benefits and Sweat Equity) Regulations, 2021?
3. “In a growing company, ESOP are being used to retain talent.” Discuss.
4. Explain the implementation of ESOP Schemes through Trust in accordance with SEBI (Share Based Employee Benefits and Sweat Equity) Regulations, 2021.
5. What are the documents required to be prepared by the company secretary for listing approval for Bonus Shares issued by the company for documentation purpose ?

