

FREQUENTLY ASKED QUESTIONS

ON

SEBI (DELISTING OF EQUITY SHARES) REGULATIONS, 2021

These FAQs offer only a simplistic explanation/clarification of terms/concepts related to the SEBI (Delisting of Equity Shares) Regulations, 2021 ["Delisting Regulations, 2021"]. Any such explanation/clarification that is provided herein should not be regarded as an interpretation of law nor be treated as a binding opinion/guidance from the Securities and Exchange Board of India ["SEBI"]. For full particulars of laws governing the delisting of equity shares, please refer to actual text of the Acts/Regulations/Circulars appearing under the Legal Framework Section on the SEBI website.

1. What is meant by delisting of securities?

The term "delisting" of securities means removal of securities of a listed company from a stock exchange. As a consequence of delisting, the securities of that company would no longer be traded at that stock exchange.

2. What is the difference between voluntary delisting and compulsory delisting?

In voluntary delisting, a company decides on its own to remove its securities from a stock exchange whereas in compulsory delisting, the securities of a company are removed from a stock exchange based on the grounds as prescribed in Rule 21 of Securities Contracts (Regulation) Rules, 1957.

3. What is the exit opportunity available for shareholders in case a company gets voluntarily delisted?

SEBI (Delisting of Securities) Regulations, 2021 provide an exit mechanism to the existing shareholders in case of voluntary delisting in the following manner:

- a) Voluntary delisting whereby the exit price is determined through the Reverse Book Building process- The floor price is calculated in accordance with the regulations and the shareholders have to make a bid at a price either on or above the floor price. The exit price would be decided on the basis of bidding by the public shareholders which takes the shareholding of the acquirer along with the persons acting in concert to 90 per cent of the total issued shares of the company. If the exit price so determined is acceptable to the promoter, the promoter pays that price to the shareholders and the shareholders can exit.

- b) Voluntary delisting whereby the exit price is determined through the Fixed Price process- The floor price is calculated in accordance with the regulations. The Acquirer is required to provide a fixed delisting price, which is at least 15 per cent more than the floor price. If the fixed delisting price is suitable to the shareholders, they can tender their shares and the acquirer shall be bound to accept all the equity shares tendered if the post-offer shareholding of the acquirer along with the shares tendered by the public shareholders reaches 90 per cent at this fixed delisting price.

Those shareholders who did not participate in the Reverse Book Building or the Fixed price process have an option to offer their shares for sale to the promoters. The promoters are under an obligation to accept the shares at the same exit price. This facility is usually available for a period of at least one year from the date of closure of the delisting process.

- c) Voluntary Delisting for a small company- Any company with paid up capital of less than Rs.10 crore and net worth less than Rs.25 crores, whose equity shares have not been frequently traded on any recognized stock exchange for a period of one year and has not been suspended for any non-compliance in the preceding one year would not be required to follow the Reverse Book Building process or the Fixed Price process. In such cases, the promoter decides the exit price in consultation with the merchant banker. The promoter writes to all public shareholders informing the proposal for delisting. Once the requisite consent is received, the promoter makes payment of consideration for the same and the shareholders can exit.

4. What is the exit opportunity available for investors in case a company gets compulsorily delisted?

SEBI (Delisting of Securities) Regulations, 2021 provide an exit mechanism to the existing shareholders in case of compulsory delisting in the following manner:

The promoter(s) of the company shall acquire the delisted equity shares from the public shareholders by paying them the value determined by the independent valuer, within three months of the date of delisting from the recognised stock exchange, subject to the option of the public shareholders to retain their shares.

5. **Whether a company listed on more than one stock exchange has to provide exit offer to shareholders in case it delists from one stock exchange but remains listed on the other stock exchange?**

A company which delists its equity shares from a recognised stock exchange but continues to remain listed on another recognised stock exchange would not be required to provide an exit opportunity to its shareholders provided the equity shares remain listed on any recognised stock exchange which has nationwide trading terminals.

6. **Whether the same merchant banker appointed to carry out due-diligence on behalf of the company in terms of Regulation 8(1A) of Delisting Regulations can act as a Manager to the offer?**

Yes, the same merchant banker can conduct due-diligence on behalf of the company and also act as the Manager to the Delisting Offer.

7. **What is the reference date for calculation of floor price under the delisting Regulations?**

The reference date for computing the floor price in case of Voluntary Delisting would be the date of the initial public announcement. Further, if the initial public announcement is made during trading hours, then the date of such initial public announcement will be the reference date and if the initial public announcement is made after the trading hours, then the next day will be the reference date.

Further, the reference date for computing the volume weighted average price in case of delisting of equity shares of a subsidiary company pursuant to a scheme of arrangement in terms of Regulation 37, is the date on which the prior intimation is required to be given to the stock exchanges.

8. **In case any third party acquirer makes a delisting offer instead of an open offer under regulation 5A of SEBI (Substantial Acquisition of Shares and Takeover) Regulations, 2011, whether the requirement of Board approval and MB due diligence would apply?**

Yes, the requirement of Board approval and due diligence by the Merchant Banker would apply in such cases as well.

9. Can cash component of the escrow account in the delisting offer process be maintained in an interest bearing account?¹

Yes, the cash component of the escrow account may be maintained in an interest bearing account. However, the merchant banker shall ensure that the funds are available at the time of making payment to shareholders.

10. Can the promoter of a small company, as defined under regulation 35 of Delisting Regulations, be considered to have complied with the condition under regulation 35(2)(d) if the public shareholders holding at least ninety percent of the public shareholding give their positive consent in writing to the proposal for delisting?²

Yes, the promoter of a small company would be considered to have complied with the condition under regulation 35(2)(d) if the public shareholders, irrespective of their numbers, holding ninety percent or more of the public shareholding give their positive consent in writing to the proposal for delisting. *(Please refer to SAT Order dated November 04, 2011 in the matter of V. T. Somasundaram and M/s. Trichy Distilleries & Chemicals Limited vs. Madras Stock Exchange and SEBI.)*

11. How does shareholder tender his/her shares for delisting in the tender offer method?³

In case the equity shares are held in dematerialized form: Eligible shareholders may tender the equity shares through their respective stock broker by indicating the details of equity shares to be tendered under the delisting offer, during the normal trading hours of secondary market.

In case the Equity Shares are held in physical form: Eligible shareholders shall approach their respective stock broker along with the complete set of documents, as stated in public announcement / letter of offer, for verification procedures. Upon placing the bid, the broker will provide a slip generated by the exchange bidding system to the eligible seller, confirming registration of transaction. After placement of bid, the broker shall send the tender form along with slip and other relevant documents, to the registrar to the delisting offer, as specified in public announcement / letter of offer.

¹ Inserted on 2-11-2015.

² Inserted on 21-04-2016.

³ Inserted on 05-08-2016.

12. How does one participate in the delisting in case one does not receive the tender/offer form?⁴

In case the equity shares are in dematerialized form: Eligible shareholders can make an application by providing the application in writing on plain paper, signed by the eligible shareholder, stating name and address of eligible shareholder, number of equity shares held as on the record date, client ID number, DP name/ID, beneficiary account number and number of equity shares tendered for the delisting offer.

In case the equity shares are in physical form: Eligible shareholder can participate in the offer by providing the application in writing on plain paper signed by the eligible shareholder stating name, address, folio number, number of equity shares held, share certificate number, number of equity shares tendered for the delisting offer and the distinctive numbers thereof, enclosing the original share certificate(s), copy of eligible shareholder's PAN card(s) and executed share transfer form in favour of the Company. Eligible shareholder shall ensure that the relevant documents are tendered at the collection centres / registrar to the delisting offer, as mentioned in public announcement / letter of offer.

In both cases above, eligible shareholder will be required to approach their respective broker (along with the complete set of documents for verification procedures) and have to ensure that their bid is entered by their respective stock broker in the electronic platform to be made available by respective stock exchange, before the closing date as specified in public announcement / letter of offer.

13. Regulation 34 of Delisting Regulations imposes restrictions on accessing the securities market or seeking listing for any equity shares. Do these restrictions include buying, selling or dealing in securities?⁵

No. The restrictions imposed under regulation 34 of Delisting Regulations are limited to directly or indirectly raising capital in the securities market or seeking listing for any equity shares. The same does not include a restriction from buying, selling or dealing in securities.

⁴ Inserted on 05-08-2016.

⁵ Inserted on 03-04-2018.