

# **COMPANIES (ISSUE OF GLOBAL DEPOSITORY RECEIPTS) RULES, 2014**

## **NOTIFICATION NO. GSR 252(E) [F.NO.1/21/13-CL-V], DATED 31-3-2014**

In exercise of the powers conferred by section 41 read with 469 of the Companies Act, 2013, the Central Government hereby makes the following rules, namely:—

### Short title and commencement

1. (1) These Rules may be called Companies (Issue of Global Depository Receipts) Rules, 2014.
- (2) They shall come into force on the 1st day of April, 2014.

### Definitions

2. (1) In these Rules, unless the context otherwise requires,—

- (a) "Act" means the Companies Act, 2013 (18 of 2013);
- (b) "Section" means section of the Act;
- (c) "Scheme" means the Foreign Currency Convertible Bonds and Ordinary Shares (Through Depository Receipt Mechanism) Scheme, 1993 or any modification or re-enactment thereof;

(2) The Words and expressions used in these rules but not defined and defined in the Act or in the Companies (Specification of definitions details) Rules, 2014 or in the Foreign Currency Convertible Bonds and Ordinary Shares (Through Depository Receipt Mechanism) Scheme, 1993 shall have the meanings respectively assigned to them in the Act or in the said rules or scheme.

### Eligibility to issue depository receipts

3. A company may issue depository receipts provided it is eligible to do so in terms of the Scheme and relevant provisions of the Foreign Exchange Management Rules and Regulations.

### Conditions for issue of depository receipts

4. (1) The Board of Directors of the company intending to issue depository receipts shall pass a resolution authorising the company to do so.

(2) The company shall take prior approval of its shareholders by a special resolution to be passed at a general meeting:

Provided that a special resolution passed under section 62 for issue of shares underlying the depository receipts, shall be deemed to be a special resolution for the purpose of section 41 as well.

(3) The depository receipts shall be issued by an overseas depository bank appointed by the company and the underlying shares shall be kept in the custody of a domestic custodian bank.

(4) The company shall ensure that all the applicable provisions of the Scheme and the rules or regulations or guidelines issued by the Reserve Bank of India are complied with before and after the issue of depository receipts.

(5) The company shall appoint a merchant banker or a practising chartered accountant or a practising cost accountant or a practising company secretary to oversee all the compliances relating to issue of depository receipts and the compliance report taken from such merchant banker or practising chartered accountant or practising cost accountant or practising company secretary, as the case may be, shall be placed at the meeting of the Board of Directors of the company or of the committee of the Board of directors authorised by the Board in this regard to be held immediately after closure of all formalities of the issue of depository receipts:

Provided that the committee of the Board of directors referred to above shall have at least one independent director in case the company is required to have independent directors.

#### Manner and form of depository receipts

5. (1) The depository receipts can be issued by way of public offering or private placement or in any other manner prevalent abroad and may be listed or traded in an overseas listing or trading platform.

(2) The depository receipts may be issued against issue of new shares or may be sponsored against shares held by shareholders of the company in accordance with such conditions as the Central Government or Reserve Bank of India may prescribe or specify from time to time.

(3) The underlying shares shall be allotted in the name of the overseas depository bank and against such shares, the depository receipts shall be issued by the overseas depository bank abroad.

#### Voting rights

6. (1) A holder of depository receipts may become a member of the company and shall be entitled to vote as such only on conversion of the depository receipts into underlying shares after following the procedure provided in the Scheme and the provisions of this Act.

(2) Until the conversion of depository receipts, the overseas depository shall be entitled to vote on behalf of the holders of depository receipts in accordance with the provisions of the agreement entered into between the depository, holders of depository receipts and the company in this regard.

#### Proceeds of issue

7. The proceeds of issues of depository receipts shall either be remitted to a bank account in India or deposited in an Indian bank operating abroad or any foreign bank (which is a Scheduled Bank under the Reserve Bank of India Act, 1934) having operations in India with an agreement that the foreign bank having operations in India shall take responsibility for furnishing all the information which may be required and in the event of a sponsored issue of Depository Receipts, the proceeds of the sale shall be credited to the respective bank account of the shareholders.

#### Depository receipts prior to commencement

8. (1) A company which has issued depository receipts prior to commencement of these rules shall comply with the requirements under these rules within six months of such commencement.

(2) Any issue of depository receipts after six months of commencement of these rules shall be in accordance with the requirements of these rules.

#### Non applicability of certain provisions of the Act

9. (1) The provisions of the Act and any rules issued thereunder insofar as they relate to public issue of shares or debentures shall not apply to issue of depository receipts abroad.

(2) The offer document, by whatever name called and if prepared for the issue of depository receipts, shall not be treated as a prospectus or an offer document within the meaning of this Act and all the provisions as applicable to a prospectus or an offer document shall not apply to a depository receipts offer document.

(3) Notwithstanding anything contained under section 88 of the Act, until the redemption of depository receipts, the name of the overseas depository bank shall be entered in the Register of Members of the company.

## **SHARE CAPITAL & DEBENTURES**

### **COMPANIES (PROSPECTUS AND ALLOTMENT OF SECURITIES) RULES, 2014**

*In exercise of the powers conferred under section 26, sub-section (1) of section 27, section 28, section 29, sub-section (2) of section 31, sub-sections (3) and (4) of section 39, sub-section (6) of section 40 and section 42 read with section 469 of the Companies Act, 2013 and in supersession of the Companies (Central Government's) General Rules and Forms, 1956 or any other rules prescribed under the Companies Act, 1956 (1 of 1956) on matters covered under these rules except as respects things done or omitted to be done before such supersession, the Central Government hereby makes the following rules, namely:—*

#### **Short title and commencement.**

1. (1) These rules may be called the Companies (Prospectus and Allotment of Securities) Rules, 2014.
- (2) They shall come into force on the 1st day of April, 2014.

#### **Definitions.**

2. (1) In these rules, unless the context otherwise requires,—

- (a) "Act" means the Companies Act, 2013 (18 of 2013);
- (b) "Annexure" means the Annexure to these rules;
- (c) "fees" means fees as specified in the Companies (Registration Offices and Fees) Rules, 2014;
- (d) "Form" or "e-Form" means a form set forth in Annexure to these rules which shall be used for the matter to which it relates;
- (e) "Regional Director" means the person appointed by the Central Government in the Ministry of Corporate Affairs as a Regional Director;
- (f) "section" means section of the Act;

- (2) Words and expressions used in these rules but not defined and defined in the Act or in the Companies (Specification of definitions details) Rules, 2014, shall have the meanings respectively assigned to them in the Act or in the said Rules.

#### **Information to be stated in the prospectus.**

3. (1) The Prospectus to be issued shall contain—

- (a) the names, addresses and contact details of the corporate office of the issuer company, compliance officer of the issuer company, merchant bankers and co-managers to the issue, registrar to the issue, bankers to the issue, stock brokers to the issue, credit rating agency for the issue, arrangers, if any, of the instrument, names and addresses of such other persons as may be specified by the Securities and Exchange Board in its regulations;
- (b) the dates relating to opening and closing of the issue;
- (c) a declaration which shall be made by the Board or the Committee authorised by the Board in the prospectus that the allotment letters shall be issued or application money shall be refunded within fifteen days from the closure of the issue or such lesser time as may be specified by Securities and Exchange Board or else the application money shall be refunded to the applicants forthwith, failing which interest shall be due to be paid to the applicants at the rate of fifteen per cent per annum for the delayed period.
- (d) a statement given by the Board that all monies received out of the issue shall be transferred to a separate bank account maintained with a Scheduled Bank;

- (e) the details of all utilized and unutilised monies out of the monies collected in the previous issue made by way of public offer shall be disclosed and continued to be disclosed in the balance sheet till the time any part of the proceeds of such previous issue remains unutilized indicating the purpose for which such monies have been utilized, and the securities or other forms of financial assets in which such unutilized monies have been invested;
- (f) the names, addresses, telephone numbers, fax numbers and e-mail addresses of the underwriters and the amount underwritten by them;
- (g) the consent of trustees, solicitors or advocates, merchant bankers to the issue, registrar to the issue, lenders and experts;

(2) The capital structure of the company shall be presented in the following manner, namely:—

(i) (a) the authorised, issued, subscribed and paid up capital (number of securities, description and aggregate nominal value);

(b) the size of the present issue;

(c) the paid up capital—

(A) after the issue;

(B) after conversion of convertible instruments (if applicable);

(d) the share premium account (before and after the issue);

(ii) the details of the existing share capital of the issuer company in a tabular form, indicating therein with regard to each allotment, the date of allotment, the number of shares allotted, the face value of the shares allotted, the price and the form of consideration:

**Provided** that in the case of an initial public offer of an existing company, the details regarding individual allotment shall be given from the date of incorporation of the issuer and in the case of a listed issuer company, the details shall be given for five years immediately preceding the date of filing of the prospectus:

**Provided** that the issuer company shall also disclose the number and price at which each of the allotments were made in the last two years preceding the date of the prospectus separately indicating the allotments made for considerations other than cash and the details of the consideration in each case.

(3) The prospectus to be issued shall contain the following particulars, namely:—

- (a) the objects of the issue;
- (b) the purpose for which there is a requirement of funds;
- (c) the funding plan (means of finance);
- (d) the summary of the project appraisal report (if any);
- (e) the schedule of implementation of the project;
- (f) the interim use of funds, if any

(4) The prospectus to be issued shall contain the following details and disclosures, namely:—

- (i) the details of any litigation or legal action pending or taken by any Ministry or Department of the Government or a statutory authority against any promoter of the issuer company during the last five years immediately preceding the year of the issue of the prospectus and any direction issued by such Ministry or Department or statutory authority upon conclusion of such litigation or legal action shall be disclosed;
- (ii) the details of pending litigation involving the issuer, promoter, director, subsidiaries, group companies or any other person, whose outcome could have material adverse effect on the position of the issuer;
- (iii) the details of pending proceedings initiated against the issuer company for economic offences;

- (iv) the details of default and non-payment of statutory dues etc.
- (5) The details of directors including their appointment and remuneration, and particulars of the nature and extent of their interests in the company shall be disclosed in the following manner, namely:—
- (i) the name, designation, Director Identification Number (DIN), age, address, period of directorship, details of other directorships;
  - (ii) the remuneration payable or paid to the director by the issuer company, its subsidiary and associate company; shareholding of the director in the company including any stock options; shareholding in subsidiaries and associate companies; appointment of any relatives to an office or place of profit;
  - (iii) the full particulars of the nature and extent of interest, if any, of every director:
    - (a) in the promotion of the issuer company; or
    - (b) in any immovable property acquired by the issuer company in the two years preceding the date of the Prospectus or any immovable property proposed to be acquired by it.
  - (iv) where the interest of such a director consists in being a member of a firm or company, the nature and extent of his interest in the firm or company, with a statement of all sums paid or agreed to be paid to him or to the firm or company in cash or shares or otherwise by any person either to induce him to become, or to help him qualify as a director, or otherwise for services rendered by him or by the firm or company, in connection with the promotion or formation of the issuer company shall be disclosed.
- (6) The sources of promoters' contribution, if any, shall be disclosed in the following manner, namely:—
- (i) the total shareholding of the promoters, clearly stating the name of the promoter, nature of issue, date of allotment, number of shares, face value, issue price or consideration, source of funds contributed, date when the shares were made fully paid up, percentage of the total pre and post issue capital;
  - (ii) the proceeds out of the sale of shares of the company and shares of its subsidiary companies previously held by each of the promoters;
  - (iii) the disclosure for sources of promoters contribution shall also include the particulars of name, address and the amount so raised as loan, financial assistance etc., if any, by promoters for making such contributions and in case of own sources, complete details thereof.

### **Reports to be set out in the Prospectus.**

**4.** The following reports shall be set out with the prospectus, namely:—

- (1) The reports by the auditors with respect to profits and losses and assets and liabilities.

*Explanation.*—For the purposes of this sub-rule, the report shall also include the amounts or rates of dividends, if any, paid by the issuer company in respect of each class of shares for each of the five financial years immediately preceding the year of issue of the prospectus, giving particulars of each class of shares on which such dividends have been paid and particulars of the cases in which no dividends have been paid in respect of any class of shares for any of those years:

**Provided** that if no accounts have been made up in respect of any part of the period of five years ending on a date three months before the issue of the prospectus, a statement of that fact accompanied by a statement of the accounts of the issuer company in respect of that part of the said period up to a date not earlier than six months of the date of issue of the prospectus indicating the profit or loss for that period and assets and liabilities position as at the end of that period together with a certificate from the auditors that such accounts have been examined and found correct and the said statement may indicate the nature of provision or adjustments made or which are yet to be made.

(2) The reports relating to profits and losses for each of the five financial years or where five financial years have not expired, for each of the financial year immediately preceding the issue of the prospectus shall—

- (a) if the company has no subsidiaries, deal with the profits or losses of the company (distinguishing items of a non-recurring nature) for each of the five financial years immediately preceding the year of the issue of the prospectus; and
- (b) if the company has subsidiaries, deal separately with issuer company's profits or losses as provided in clause (a) and in addition, deal either—
  - (i) as a whole with the combined profits or losses of its subsidiaries, so far as they concern members of the issuer company; or
  - (ii) individually with the profits or losses of each subsidiary, so far as they concern members of the issuer company; or
  - (iii) as a whole with the profits or losses of the company, and, so far as they concern members of the issuer company, with the combined profits or losses of its subsidiaries.

(3) The reports made by the auditors in respect of the business of the company shall be stated in the prospectus in the manner provided in sub-rule (2).

#### **Other matters and reports to be stated in the prospectus.**

**5.** The prospectus shall include the following other matters and reports, namely:—

(1) If the proceeds, or any part of the proceeds, of the issue of the shares or debentures are or is to be applied directly or indirectly—

- (a) in the purchase of any business; or
- (b) in the purchase of an interest in any business and by reason of that purchase, or anything to be done in consequence thereof, or in connection therewith; the company shall become entitled to an interest in either the capital or profits and losses or both, in such business exceeding fifty per cent thereof, a report made by a chartered accountant (who shall be named in the prospectus) upon—
  - (i) the profits or losses of the business for each of the five financial years immediately preceding the date of the issue of the prospectus; and
  - (ii) the assets and liabilities of the business as on the last date to which the accounts of the business were made up, being a date not more than one hundred and twenty days before the date of the issue of the prospectus;
- (c) in purchase or acquisition of any immovable property including indirect acquisition of immovable property for which advances have been paid to even third parties, disclosures regarding—
  - (i) the names, addresses, descriptions and occupations of the vendors;
  - (ii) the amount paid or payable in cash, to the vendor and, where there is more than one vendor, or the company is a sub-purchaser, the amount so paid or payable to each vendor, specifying separately the amount, if any, paid or payable for goodwill;
- (iii) the nature of the title or interest in such property proposed to be acquired by the company; and
- (iv) the particulars of every transaction relating to the property, completed within the two preceding years, in which any vendor of the property or any person who is, or was at the time of the transaction, a promoter, or a director or proposed director of the company had any interest, direct or indirect, specifying the date of the transaction and the name of such promoter, director or proposed director and stating the amount

payable by or to such vendor, promoter, director or proposed director in respect of the transaction.

(2)(a) If—

- (i) the proceeds, or any part of the proceeds, of the issue of the shares or debentures are or are to be applied directly or indirectly and in any manner resulting in the acquisition by the company of shares in any other body corporate; and
- (ii) by reason of that acquisition or anything to be done in consequence thereof or in connection therewith, that body corporate shall become a subsidiary of the company, a report shall be made by a Chartered Accountant (who shall be named in the prospectus) upon—
  - (A) the profits or losses of the other body corporate for each of the five financial years immediately preceding the issue of the prospectus; and
  - (B) the assets and liabilities of the other body corporate as on the last date to which its accounts were made up.

(b) The said report shall—

- (i) indicate how the profits or losses of the other body corporate dealt with by the report would, in respect of the shares to be acquired, have concerned members of the issuer company and what allowance would have been required to be made, in relation to assets and liabilities so dealt with for the holders of the balance shares, if the issuer company had at all material times held the shares proposed to be acquired; and
- (ii) where the other body corporate has subsidiaries, deal with the profits or losses and the assets and liabilities of the body corporate and its subsidiaries in the manner as provided in sub-clause (ii) of clause (a).

(3) The matters relating to terms and conditions of the term loans including re-scheduling, prepayment, penalty, default.

(4) The aggregate number of securities of the issuer company and its subsidiary companies purchased or sold by the promoter group and by the directors of the company which is a promoter of the issuer company and by the directors of the issuer company and their relatives within six months immediately preceding the date of filing the prospectus with the Registrar of Companies shall be disclosed.

(5) The matters relating to—

- (A) Material contracts;
- (B) Other material contracts;
- (C) Time and place at which the contracts together with documents will be available for inspection from the date of prospectus until the date of closing of subscription list.

(6) The related party transactions entered during the last five financial years immediately preceding the issue of prospectus as under—

- (a) all transactions with related parties with respect to giving of loans or, guarantees, providing securities in connection with loans made, or investments made;
- (b) all other transactions which are material to the issuer company or the related party, or any transactions that are unusual in their nature or conditions, involving goods, services, or tangible or intangible assets, to which the issuer company or any of its parent companies was a party:

**Provided** that the disclosures for related party transactions for the period prior to notification of these rules shall be to the extent of disclosure requirements as per the Companies Act, 1956 and the relevant accounting standards prevailing at the said time.

(7) The summary of reservations or qualifications or adverse remarks of auditors in the last five financial



years immediately preceding the year of issue of prospectus and of their impact on the financial statements and financial position of the company and the corrective steps taken and proposed to be taken by the company for each of the said reservations or qualifications or adverse remarks.

(8) The details of any inquiry, inspections or investigations initiated or conducted under the Companies Act or any previous companies law in the last five years immediately preceding the year of issue of prospectus in the case of company and all of its subsidiaries; and if there were any prosecutions filed (whether pending or not); fines imposed or compounding of offences done in the last five years immediately preceding the year of the prospectus for the company and all of its subsidiaries.

(9) The details of acts of material frauds committed against the company in the last five years, if any, and if so, the action taken by the company.

(10) A fact sheet shall be included at the beginning of the prospectus which shall contain—

- (a) the type of offer document ("Red Herring Prospectus" or "Shelf Prospectus" or "Prospectus").
- (b) the name of the issuer company, date and place of its incorporation, its logo, address of its registered office, its telephone number, fax number, details of contact person, website address, e-mail address;
- (c) the names of the promoters of the issuer company;
- (d) the nature, number, price and amount of securities offered and issue size, as may be applicable;
- (e) the aggregate amount proposed to be raised through all the stages of offers of specified securities made through the shelf prospectus;
- (f) the name, logo and address of the registrar to the issue, along with its telephone number, fax number, website address and e-mail address;
- (g) the issue schedule—
  - (i) date of opening of the issue;
  - (ii) date of closing of the issue;
  - (iii) date of earliest closing of the issue, if any.
- (h) the credit rating, if applicable;
  - (i) all the grades obtained for the initial public offer;
  - (j) the name(s) of the recognised stock exchanges where the securities are proposed to be listed;
- (k) the details about eligible investors;
- (l) coupon rate, coupon payment frequency, redemption date, redemption amount and details of debenture trustee in case of debt securities.

#### **Period for which information to be provided in certain cases.**

**6.** For the matters specified in rules 3 to 5, which require a company to provide certain particulars or information relating to the preceding five financial years, it shall be sufficient compliance for a company which has not completed five years, if such company provides such particulars or information for all the previous years since its incorporation.

#### **Variation in terms of contracts referred to in the prospectus or objects for which prospectus was issued.**

**7.** (1) where the company has raised money from public through prospectus and has any unutilized amount out of the money so raised, it shall not vary the terms of contracts referred to in the prospectus

or objects for which the prospectus was issued except by passing a special resolution through postal ballot and the notice of the proposed special resolution shall contain the following particulars, namely:—

- (a) the original purpose or object of the Issue;
- (b) the total money raised;
- (c) the money utilised for the objects of the company stated in the prospectus;
- (d) the extent of achievement of proposed objects (that is fifty per cent; sixty per cent, etc);
- (e) the unutilised amount out of the money so raised through prospectus;
- (f) the particulars of the proposed variation in the terms of contracts referred to in the prospectus or objects for which prospectus was issued;
- (g) the reason and justification for seeking variation;
- (h) the proposed time limit within which the proposed varied objects would be achieved;
- (i) the clause-wise details as specified in sub-rule (3) of rule 3 as was required with respect to the originally proposed objects of the issue;
- (j) the risk factors pertaining to the new objects; and
- (k) the other relevant information which is necessary for the members to take an informed decision on the proposed resolution.

(2) The advertisement of the notice for getting the resolution passed for varying the terms of any contract referred to in the prospectus or altering the objects for which the prospectus was issued, shall be in **Form PAS-1** and such advertisement shall be published simultaneously with dispatch of Postal Ballot Notices to Shareholders.

(3) The notice shall also be placed on the web-site of the company, if any.

### **Offer of Sale by Members.**

**8.** (1) The provisions of Part I of Chapter III namely "Prospectus and Allotment of Securities" and rules made thereunder shall be applicable to an offer of sale referred to in section 28 except for the following, namely:—

- (a) the provisions relating to minimum subscription;
- (b) the provisions for minimum application value;
- (c) the provisions requiring any statement to be made by the Board of directors in respect of the utilization of money; and
- (d) any other provision or information which cannot be compiled or gathered by the offeror, with detailed justifications for not being able to comply with such provisions.

(2) The prospectus issued under section 28 shall disclose the name of the person or persons or entity bearing the cost of making the offer of sale along with reasons.

### **Dematerialisation of securities.**

**9.** The promoters of every public company making a public offer of any convertible securities may hold such securities only in dematerialised form:

**Provided** that the entire holding of convertible securities of the company by the promoters held in physical form up to the date of the initial public offer shall be converted into dematerialised form before such offer is made and thereafter such promoter shareholding shall be held in dematerialized form only.

### **Shelf prospectus and Information Memorandum.**

**10.** The information memorandum shall be prepared in **Form PAS-2** and filed with the Registrar along with the fee as provided in the Companies (Registration Offices and Fees) Rules, 2014 within one month prior to the issue of a second or subsequent offer of securities under the shelf prospectus.

#### **Refund of Application Money.**

**11.** (1) If the stated minimum amount has not been subscribed and the sum payable on application is not received within the period specified therein, then the application money shall be repaid within a period of fifteen days from the closure of the issue and if any such money is not so repaid within such period, the directors of the company who are officers in default shall jointly and severally be liable to repay that money with interest at the rate of fifteen per cent per annum.

(2) The application money to be refunded shall be credited only to the bank account from which the subscription was remitted.

#### **Return of Allotment.**

**12.** (1) Whenever a company having a share capital makes any allotment of its securities, the company shall, within thirty days thereafter, file with the Registrar a return of allotment in **Form PAS-3**, along with the fee as specified in the Companies (Registration Offices and Fees) Rules, 2014.

(2) There shall be attached to the **Form PAS-3** a list of allottees stating their names, address, occupation, if any, and number of securities allotted to each of the allottees and the list shall be certified by the signatory of the **Form PAS-3** as being complete and correct as per the records of the company.

(3) In the case of securities (not being bonus shares) allotted as fully or partly paid up for consideration other than cash, there shall be attached to the **Form PAS-3** a copy of the contract, duly stamped, pursuant to which the securities have been allotted together with any contract of sale if relating to a property or an asset, or a contract for services or other consideration.

(4) Where a contract referred to in sub-rule (3) is not reduced to writing, the company shall furnish along with the **Form PAS-3** complete particulars of the contract stamped with the same stamp duty as would have been payable if the contract had been reduced to writing and those particulars shall be deemed to be an instrument within the meaning of the Indian Stamp Act, 1899 (2 of 1899), and the Registrar may, as a condition of filing the particulars, require that the stamp duty payable thereon be adjudicated under section 31 of the Indian Stamp Act, 1899.

(5) A report of a registered valuer in respect of valuation of the consideration shall also be attached along with the contract as mentioned in sub-rule (3) and sub-rule (4).

(6) In the case of issue of bonus shares, a copy of the resolution passed in the general meeting authorizing the issue of such shares shall be attached to the **Form PAS-3**.

(7) In case the shares have been issued in pursuance of clause (c) of sub-section (1) of section 62 by a company other than a listed company whose equity shares or convertible preference shares are listed on any recognised stock exchange, there shall be attached to **Form PAS-3**, the valuation report of the registered valuer.

*Explanation.*—Pending notification of sub-section (1) of section 247 of the Act and finalisation of qualifications and experience of valuers, valuation of stocks, shares, debentures, securities etc. shall be conducted by an independent merchant banker who is registered with the Securities and Exchange Board of India or an independent chartered accountant in practice having a minimum experience of ten years.

#### **Payment of commission.**

**13.** A company may pay commission to any person in connection with the subscription or procurement of subscription to its securities, whether absolute or conditional, subject to the following conditions, namely:—

- (a) the payment of such commission shall be authorized in the company's articles of association;
- (b) the commission may be paid out of proceeds of the issue or the profit of the company or both;
- (c) the rate of commission paid or agreed to be paid shall not exceed, in case of shares, five per cent of the price at which the shares are issued or a rate authorised by the articles, whichever is less, and in case of debentures, shall not exceed two and a half per cent of the price at which the debentures are issued, or as specified in the company's articles, whichever is less;
- (d) the prospectus of the company shall disclose—
  - (i) the name of the underwriters;
  - (ii) the rate and amount of the commission payable to the underwriter; and
  - (iii) the number of securities which is to be underwritten or subscribed by the underwriter absolutely or conditionally.
- (e) there shall not be paid commission to any underwriter on securities which are not offered to the public for subscription;
- (f) a copy of the contract for the payment of commission is delivered to the Registrar at the time of delivery of the prospectus for registration.

#### **Private Placement.**

**14.** (1)(a) For the purposes of sub-section (1) of section 42, a company may make an offer or invitation to subscribe to securities through issue of a private placement offer letter in **Form PAS-4**.

(b) A private placement offer letter shall be accompanied by an application form serially numbered and addressed specifically to the person to whom the offer is made and shall be sent to him, either in writing or in electronic mode, within thirty days of recording the names of such persons in accordance with sub-section (7) of section 42:

**Provided** that no person other than the person so addressed in the application form shall be allowed to apply through such application form and any application not conforming to this condition shall be treated as invalid.

(2) A company shall not make a private placement of its securities unless—

- (a) the proposed offer of securities or invitation to subscribe securities has been previously approved by the shareholders of the company, by a Special Resolution, for each of the Offers or Invitations:

**Provided** that in the explanatory statement annexed to the notice for the general meeting the basis or justification for the price (including premium, if any) at which the offer or invitation is being made shall be disclosed:

**Provided further** that in case of offer or invitation for non-convertible debentures, it shall be sufficient if the company passes a previous special resolution only once in a year for all the offers or invitation for such debentures during the year :

<sup>1</sup>**Provided also** that in case of an offer or invitation for non-convertible debentures referred to in the second proviso, made within a period of six months from the date of commencement of these rules, the special resolution referred to in the second proviso may be passed within the said period of six months from the date of commencement

of these rules;]

(b) such offer or invitation shall be made to not more than two hundred persons in the aggregate in a financial year:

**Provided** that any offer or invitation made to qualified institutional buyers, or to employees of the company under a scheme of employees stock option as per provisions of clause (b) of sub-section (1) of section 62 shall not be considered while calculating the limit of two hundred persons.

*Explanation.*—For the purposes of this sub-rule, it is hereby clarified that—

- (i) the restrictions under sub-clause (b) would be reckoned individually for each kind of security that is equity share, preference share or debenture;
- (ii) the requirement of provisions of sub-section (3) of section 42 shall apply in respect of offer or invitation of each kind of security and no offer or invitation of another kind of security shall be made unless allotments with respect to offer or invitation made earlier in respect of any other kind of security is completed;
- (c) the value of such offer or invitation per person shall be with an investment size of not less than twenty thousand rupees of face value of the securities;
- (d) the payment to be made for subscription to securities shall be made from the bank account of the person subscribing to such securities and the company shall keep the record of the Bank account from where such payments for subscriptions have been received:

**Provided** that monies payable on subscription to securities to be held by joint holders shall be paid from the bank account of the person whose name appears first in the application.

(3) The company shall maintain a complete record of private placement offers in **Form PAS-5**:

**Provided** that a copy of such record along with the private placement offer letter in **Form PAS-4** shall be filed with the Registrar with fee as provided in Companies (Registration Offices and Fees) Rules, 2014 and where the company is listed, with the Securities and Exchange Board within a period of thirty days of circulation of the private placement offer letter.

*Explanation.*—For the purpose of this rule, it is hereby clarified that the date of private placement offer letter shall be deemed to be the date of circulation of private placement offer letter.

(4) A return of allotment of securities under section 42 shall be filed with the Registrar within thirty days of allotment in **Form PAS-3** and with the fee as provided in the Companies (Registration Offices and Fees) Rules, 2014 along with a complete list of all security holders containing—

- (i) the full name, address, Permanent Account Number and E-mail ID of such security holder;
- (ii) the class of security held;
- (iii) the date of allotment of security;
- (iv) the number of securities held, nominal value and amount paid on such securities; and particulars of consideration received if the securities were issued for consideration other than cash.

(5) The provisions of clauses (b) and (c) of sub-rule (2) shall not be applicable to—

- (a) non-banking financial companies which are registered with the Reserve Bank of India under Reserve Bank of India Act, 1934; and
- (b) housing finance companies which are registered with the National Housing Bank under National Housing Bank Act, 1987,

if they are complying with regulations made by Reserve Bank of India or National Housing Bank in respect of offer or invitation to be issued on private placement basis:

**Provided** that such companies shall comply with sub-clauses (b) and (c) of sub-rule (2) in case the Reserve Bank of India or the National Housing Bank have not specified similar regulations.

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1. Inserted by the Companies (Prospectus and Allotment of Securities) Amendment Rules, 2014, w.e.f. 30-6-2014.

## COMPANIES (SHARE CAPITAL AND DEBENTURES) RULES, 2014

*In exercise of the powers conferred under clause (a)(ii) of section 43, sub-clause (d) of sub-section (1) of section 54, sub-section (2) of section 55, sub-section (1) of section 56, sub-section (3) of section 56, sub-section (1) of section 62, sub-section (2) of section 42, clause (f) of sub-section (2) of section 63, sub-section (1) of section 64, clause (b) of sub-section (3) of section 67, sub-section (2) of section 68, sub-section (6) of section 68, sub-section (9) of section 68, sub-section (10) of section 68, sub-section (3) of section 71, sub-section (6) of section 71, sub-section (13) of section 71 and sub-sections (1) and (2) of section 72, read with sub-sections (1) and (2) of section 469 of the Companies Act, 2013 (18 of 2013) and in supersession of the Companies (Central Government's) General Rules and Forms, 1956 or any other relevant rules prescribed under the Companies Act, 1956 (1 of 1956) on matters covered under these rules, except as respects things done or omitted to be done before such supersession, the Central Government hereby makes the following rules, namely:—*

### **Short title and commencement.**

1. (1) These rules may be called the Companies (Share Capital and Debentures) Rules, 2014.
- (2) They shall come into force on the 1st day of April, 2014.

### **Definitions**

2. (1) In these rules, unless the context otherwise requires,—

- (a) "Act" means the Companies Act, 2013 (18 of 2013);
- (b) "Annexure" means the Annexure to these rules;
- (c) "Fees" means the fees as specified in the Companies (Registration Offices and Fees) Rules, 2014;
- (d) "Form" or "e-form" means a form set forth in Annexure to these rules which shall be used for the matter to which it relates;
- (e) "Regional Director" means the person appointed by the Central Government in the Ministry of Corporate Affairs as a Regional Director;
- (f) "section" means the section of the Act.

- (2) Words and expressions used in these rules but not defined and defined in the Act or in Companies (Specification of Definitions Details) Rules, 2014 shall have the meanings respectively assigned to them in the Act and said rules.

### **<sup>1</sup> [Application.**

3. *The provisions of these rules shall apply to —*

- (a) *all unlisted public companies;*
- (b) *all private companies; and*
- (c) *listed companies so far as they do not contradict or conflict with any other regulation framed in this regard by the Securities and Exchange Board of India. ]*

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1. Substituted by the Companies (Share Capital and Debentures) Amendment Rules, 2015, w.e.f. **18-3-2015**. Prior to its substitution, rule 3 read as under :

"3. *Application.*—The provisions of these rules shall apply to—

- (a) all unlisted public companies;
- (b) all private companies; and
- (c) listed companies,

so far as they do not contradict or conflict with any other provision framed in this regard by the Securities and Exchange Board of India."

#### **Equity shares with differential rights**

4. (1) No company limited by shares shall issue equity shares with differential rights as to dividend, voting or otherwise, unless it complies with the following conditions, namely:—

- (a) the articles of association of the company authorizes the issue of shares with differential rights;
- (b) the issue of shares is authorized by an ordinary resolution passed at a general meeting of the shareholders:  
**Provided** that where the equity shares of a company are listed on a recognized stock exchange, the issue of such shares shall be approved by the shareholders through postal ballot;
- (c) the shares with differential rights shall not exceed twenty-six per cent of the total post-issue paid up equity share capital including equity shares with differential rights issued at any point of time;
- (d) the company having consistent track record of distributable profits for the last three years;
- (e) the company has not defaulted in filing financial statements and annual returns for three financial years immediately preceding the financial year in which it is decided to issue such shares;
- (f) the company has no subsisting default in the payment of a declared dividend to its shareholders or repayment of its matured deposits or redemption of its preference shares or debentures that have become due for redemption or payment of interest on such deposits or debentures or payment of dividend;
- (g) the company has not defaulted in payment of the dividend on preference shares or repayment of any term loan from a public financial institution or State level financial institution or scheduled Bank that has become repayable or interest payable thereon or dues with respect to statutory payments relating to its employees to any authority or default in crediting the amount in Investor Education and Protection Fund to the Central Government:  
<sup>1</sup> **[Provided** that a company may issue equity shares with differential rights upon expiry of five years from the end of the financial year in which such default was made good.]
- (h) the company has not been penalized by Court or Tribunal during the last three years of any offence under the Reserve Bank of India Act, 1934, the Securities and Exchange Board of India Act, 1992, the Securities Contracts Regulation Act, 1956, the Foreign Exchange Management Act, 1999 or any other special Act, under which such companies being regulated by sectoral regulators.

(2) The explanatory statement to be annexed to the notice of the general meeting in pursuance of section 102 or of a postal ballot in pursuance of section 110 shall contain the following particulars, namely:—

- (a) the total number of shares to be issued with differential rights;
- (b) the details of the differential rights;
- (c) the percentage of the shares with differential rights to the total post issue paid up equity share capital including equity shares with differential rights issued at any point of time;
- (d) the reasons or justification for the issue;
- (e) the price at which such shares are proposed to be issued either at par or at premium;



- (f) the basis on which the price has been arrived at;
- (g) (i) in case of private placement or preferential issue—
- (a) details of total number of shares proposed to be allotted to promoters, directors and key managerial personnel;
- (b) details of total number of shares proposed to be allotted to persons other than promoters, directors and key managerial personnel and their relationship if any with any promoter, director or key managerial personnel;
- (ii) in case of public issue - reservation, if any, for different classes of applicants including promoters, directors or key managerial personnel;
- (h) the percentage of voting right which the equity share capital with differential voting right shall carry to the total voting right of the aggregate equity share capital;
- (i) the scale or proportion in which the voting rights of such class or type of shares shall vary;
- (j) the change in control, if any, in the company that may occur consequent to the issue of equity shares with differential voting rights;
- (k) the diluted Earning Per Share pursuant to the issue of such shares, calculated in accordance with the applicable accounting standards;
- (l) the pre and post issue shareholding pattern along with voting rights as per clause 35 of the listing agreement issued by Security Exchange Board of India from time to time.

(3) The company shall not convert its existing equity share capital with voting rights into equity share capital carrying differential voting rights and *vice versa*.

(4) The Board of Directors shall, *inter alia*, disclose in the Board's Report for the financial year in which the issue of equity shares with differential rights was completed, the following details, namely:—

- (a) the total number of shares allotted with differential rights;
- (b) the details of the differential rights relating to voting rights and dividends;
- (c) the percentage of the shares with differential rights to the total post issue equity share capital with differential rights issued at any point of time and percentage of voting rights which the equity share capital with differential voting right shall carry to the total voting right of the aggregate equity share capital;
- (d) the price at which such shares have been issued;
- (e) the particulars of promoters, directors or key managerial personnel to whom such shares are issued;
- (f) the change in control, if any, in the company consequent to the issue of equity shares with differential voting rights;
- (g) the diluted Earning Per Share pursuant to the issue of each class of shares, calculated in accordance with the applicable accounting standards;
- (h) the pre and post issue shareholding pattern along with voting rights in the format specified under sub-rule (2) of rule 4.

(5) The holders of the equity shares with differential rights shall enjoy all other rights such as bonus shares, rights shares etc., which the holders of equity shares are entitled to, subject to the differential rights with which such shares have been issued.

(6) Where a company issues equity shares with differential rights, the Register of Members maintained under section 88 shall contain all the relevant particulars of the shares so issued along with details of the shareholders.

<sup>2</sup>[*Explanation*.—For the purposes of this rule it is hereby clarified that equity shares with differential rights issued by any company under the provisions of the Companies Act, 1956 (1 of 1956) and the rules made thereunder, shall continue to be regulated under such provisions and rules.]

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1. First proviso inserted by the Companies (Share Capital and Debentures) Third Amendment Rules, 2016, w.e.f. **19-7-2016**.
2. Substituted by the Companies (Share Capital and Debentures) Amendment Rules, 2014, w.e.f. 18-6-2014. Prior to its substitution, *Explanation* read as under :

*"Explanation.*—For the purposes of this rule, it is hereby clarified that differential rights attached to such shares issued by any company under the provisions of Companies Act, 1956, shall continue till such rights are converted with the differential rights in accordance with the provisions of the Companies Act, 2013."

### **Certificate of shares (where shares are not in demat form)**

**5.** (1) Where a company issues any share capital, no certificate of any share or shares held in the company shall be issued, except—

- (a) in pursuance of a resolution passed by the Board; and
- (b) on surrender to the company of the letter of allotment or fractional coupons of requisite value, save in cases of issues against letters of acceptance or of renunciation, or in cases of issue of bonus shares:

**Provided** that if the letter of allotment is lost or destroyed, the Board may impose such reasonable terms, if any, as to seek supporting evidence and indemnity and the payment of out-of-pocket expenses incurred by the company in investigating evidence, as it may think fit.

(2) Every certificate of share or shares shall be in **Form No. SH.1** or as near thereto as possible and shall specify the name(s) of the person(s) in whose favour the certificate is issued, the shares to which it relates and the amount paid-up thereon.

(3) Every share certificate shall be <sup>3</sup>[*issued under the seal, if any, of the company*], which shall be affixed in the presence of, and signed by—

- (a) two directors duly authorized by the Board of Directors of the company for the purpose or the committee of the Board, if so authorized by the Board; and
- <sup>4</sup> [ *the secretary or any person authorised by the Board for the purpose :*
- (b)

**Provided** that in case a company does not have a common seal, the share certificate shall be signed by two directors or by a director and the Company Secretary, wherever the company has appointed a Company Secretary:

**Provided further** that, if the composition of the Board permits of it, at least one of the aforesaid two directors shall be a person other than a managing director or a whole time director:

**Provided also** that, in case of a One Person Company, every share certificate shall be issued under the seal, if any, of the company, which shall be affixed in the presence of and signed by one director or a person authorised by the Board of Directors of the company for the purpose and the Company Secretary, or any other person authorised by the Board for the purpose, and in case the One Person Company does not have a common seal, the share certificate shall be signed by the persons in the presence of whom the seal is required to be affixed in this proviso. ]

*Explanation.*—For the purposes of this sub-rule, a director shall be deemed to have signed the share certificate if his signature is printed thereon as a facsimile signature by means of any machine, equipment or other mechanical means such as engraving in metal or lithography, or digitally signed, but not by means of a rubber stamp, provided that the director shall be personally responsible for permitting the affixation of his signature thus and the safe custody of any machine, equipment or other material used for the purpose.

(4) The particulars of every share certificate issued in accordance with sub-rule (1) shall be entered in the Register of Members maintained in accordance with the provisions of section 88 along with the name(s) of person(s) to whom it has been issued, indicating the date of issue.

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3. Substituted for "issued under the seal of the company" by the Companies (Share Capital and Debentures) Second Amendment Rules, 2015, w.e.f. **29-5-2015**.

4. Substituted by the Companies (Share Capital and Debentures) Second Amendment Rules, 2015, w.e.f. **29-5-2015**. Prior to its substitution, clause (b), as amended by the Companies (Share Capital and Debentures) Amendment Rules, 2015, w.e.f. **18-3-2015**, read as under :

"(b) the secretary or any person authorised by the Board for the purpose:

**Provided** that, if the composition of the Board permits of it, at least one of the aforesaid two directors shall be a person other than the managing or whole-time director:

**Provided further** that, in case of a One Person Company, every share certificate shall be issued under the seal of the company, which shall be affixed in the presence of and signed by one director or a person authorized by the Board of Directors of the company for the purpose and the Company Secretary, or any other person authorized by the Board for the purpose."

#### **Issue of renewed or duplicate share certificate.**

**6.** (1)(a) The certificate of any share or shares shall not be issued either in exchange for those which are sub-divided or consolidated or in replacement of those which are defaced, mutilated, torn or old, decrepit, worn out, or where the pages on the reverse for recording transfers have been duly utilised, unless the certificate in lieu of which it is issued is surrendered to the company:

**Provided** that the company may charge such fee as the Board thinks fit, not exceeding fifty rupees per certificate issued on splitting or consolidation of share certificate(s) or in replacement of share certificate(s) that are defaced, mutilated, torn or old, decrepit or worn out:

(b) Where a certificate is issued in any of the circumstances specified in this sub-rule, it shall be stated on the face of it and be recorded in the Register maintained for the purpose, that it is "*Issued in lieu of share certificate No. .... sub-divided/replaced/onconsolidation*" and also that no fee shall be payable pursuant to scheme of arrangement sanctioned by the High Court or Central Government:

(c) A company may replace all the existing certificates by new certificates upon sub-division or consolidation of shares or merger or demerger or any reconstitution without requiring old certificates to be surrendered subject to compliance with clause (a) of sub-rule (1) of rule 5, sub-rule (2) of rule 5 and sub-rule (3) of rule 5.

(2)(a) The duplicate share certificate shall be not issued in lieu of those that are lost or destroyed, without the prior consent of the Board and without payment of such fees as the Board thinks fit, not exceeding rupees fifty per certificate and on such reasonable terms, such as furnishing supporting evidence and indemnity and the payment of out-of-pocket expenses incurred by the company in investigating the evidence produced:

(b) Where a certificate is issued in any of the circumstances specified in this sub-rule, it shall be stated prominently on the face of it and be recorded in the Register maintained for the purpose, that it is "*duplicate issued in lieu of share certificate No. ....*" and the word "duplicate" shall be stamped or printed prominently on the face of the share certificate:

(c) In case unlisted companies, the duplicate share certificates shall be issued within a period of three months and in case of listed companies such certificate shall be issued <sup>5</sup>[within forty-five days], from the

date of submission of complete documents with the company respectively.

(3)(a) The particulars of every share certificate issued in accordance with sub-rules (1) and (2) shall be entered forthwith in a Register of Renewed and Duplicate Share Certificates maintained in **Form No.SH.2** indicating against the name(s) of the person(s) to whom the certificate is issued, the number and date of issue of the share certificate in lieu of which the new certificate is issued, and the necessary changes indicated in the Register of Members by suitable cross-references in the "Remarks" column.

(b) The register shall be kept at the registered office of the company or at such other place where the Register of Members is kept and it shall be preserved permanently and shall be kept in the custody of the company secretary of the company or any other person authorized by the Board for the purpose.

(c) All entries made in the Register of Renewed and Duplicate Share Certificates shall be authenticated by the company secretary or such other person as may be authorised by the Board for the purposes of sealing and signing the share certificate under the provisions of sub-rule (3) of rule 5.

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**5.** Substituted for "within fifteen days" by the Companies (Share Capital and Debentures) Amendment Rules, 2015, w.e.f. **18-3-2015**.

**Maintenance of share certificate forms and related books and documents.**

**7.** (1) All blank forms to be used for issue of share certificates shall be printed and the printing shall be done only on the authority of a resolution of the Board and the blank form shall be consecutively machine-numbered and the forms and the blocks, engravings, facsimiles and hues relating to the printing of such forms shall be kept in the custody of the secretary or such other person as the Board may authorise for the purpose; and the company secretary or other person aforesaid shall be responsible for rendering an account of these forms to the Board.

(2) The following persons shall be responsible for the maintenance, preservation and safe custody of all books and documents relating to the issue of share certificates, including the blank forms of share certificates referred to in sub-rule (1), namely: —

- (a) the committee of the Board, if so authorized by the Board or where the company has a company secretary, the company secretary; or
- (b) where the company has no company secretary, a Director specifically authorised by the Board for such purpose.

(3) All books referred to in sub-rule (2) shall be preserved in good order not less than thirty years and in case of disputed cases, shall be preserved permanently, and all certificates surrendered to a company shall immediately be defaced by stamping or printing the word "cancelled" in bold letters and may be destroyed after the expiry of three years from the date on which they are surrendered, under the authority of a resolution of the Board and in the presence of a person duly appointed by the Board in this behalf:

**Provided** that nothing in this sub-rule shall apply to cancellation of the certificates of securities, under sub-section (2) of section 6 of the Depositories Act, 1996 (22 of 1996), when such certificates are cancelled in accordance with sub-regulation (5) of regulation 54 of the Securities and Exchange Board of India (Depositories and Participants) Regulations, 1996, made under section 30 of the Securities and Exchange Board of India Act, 1992 (15 of 1992) read with section 25 of the Depositories Act, 1996 (22 of 1996).

**Issue of sweat equity shares.**

**8.** (1) A company other than a listed company, which is not required to comply with the Securities and Exchange Board of India 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.

*Explanation.*—For the purposes of this rule—

- (i) the expressions "Employee" means—
  - (a) a permanent employee of the company who has been working in India or outside India, for at least last one year; 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-clause (a) or (b) above of a subsidiary, in India or outside India, or of a holding company of the company;
- (ii) the expression 'Value additions' means 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.

(2) The explanatory statement to be annexed to the notice of the general meeting pursuant to section 102 shall contain the following particulars, namely:—

- (a) the date of the Board meeting at which the proposal for issue of sweat equity shares was approved;
- (b) the reasons or justification for the issue;
- (c) the class of shares under which sweat equity shares are intended to be issued;
- (d) the total number of shares to be issued as sweat equity;
- (e) the class or classes of directors or employees to whom such equity shares are to be issued;
- (f) the principal terms and conditions on which sweat equity shares are to be issued, including basis of valuation;
- (g) the time period of association of such person with the company;
- (h) the names of the directors or employees to whom the sweat equity shares will be issued and their relationship with the promoter or/and Key Managerial Personnel;
- (i) the price at which the sweat equity shares are proposed to be issued;
- (j) the consideration including consideration other than cash, if any to be received for the sweat equity;
- (k) the ceiling on managerial remuneration, if any, be breached by issuance of such sweat equity and how it is proposed to be dealt with;
- (l) a statement to the effect that the company shall conform to the applicable accounting standards; and
- (m) diluted earning per share pursuant to the issue of sweat equity shares, calculated in accordance with the applicable accounting standards.

(3) The special resolution authorising the issue of sweat equity shares shall be valid for making the allotment within a period of not more than twelve months from the date of passing of the special resolution.

(4) The company shall not issue sweat equity shares for more than fifteen per cent of the existing paid up equity share capital in a year or shares of the issue value of rupees five crores, whichever is higher:

**Provided** that the issuance of sweat equity shares in the Company shall not exceed twenty five per cent, of the paid up equity capital of the Company at any time:

<sup>1</sup> **[Provided further]** that a startup company, as defined in notification number GSR 180(E) dated 17<sup>th</sup> February, 2016 issued by the Department of Industrial Policy and Promotion, Ministry of Commerce and Industry, Government of India, may issue sweat equity shares not exceeding fifty per cent of its paid

*up capital up to five years from the date of its incorporation or registration.]*

(5) The sweat equity shares issued to directors or employees shall be locked in/non-transferable for a period of three years from the date of allotment and the fact that the share certificates are under lock-in and the period of expiry of lock-in shall be stamped in bold or mentioned in any other prominent manner on the share certificate.

(6) The sweat equity shares to be issued shall be valued at a price determined by a registered valuer as the fair price giving justification for such valuation.

(7) The valuation of intellectual property rights or of know how or value additions for which sweat equity shares are to be issued, shall be carried out by a registered valuer, who shall provide a proper report addressed to the Board of directors with justification for such valuation.

(8) A copy of gist along with critical elements of the valuation report obtained under clause (6) and clause (7) shall be sent to the shareholders with the notice of the general meeting.

(9) Where sweat equity shares are issued for a non-cash consideration on the basis of a valuation report in respect thereof obtained from the registered valuer, 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 accounting standards; or
- (b) where clause (a) is not applicable, it shall be expensed as provided in the accounting standards.

(10) The amount of sweat equity shares issued shall be treated as part of managerial remuneration for the purposes of sections 197 and 198 of the Act, if the following conditions are fulfilled, namely:—

- (a) the sweat equity shares are issued to any director or manager; and
- (b) they are issued for consideration other than cash, which does not take the form of an asset which can be carried to the balance sheet of the company in accordance with the applicable accounting standards.

(11) In respect of sweat equity shares issued during an accounting period, the accounting value of sweat equity shares shall be treated as a form of compensation to the employee or the director in the financial statements of the company, if the sweat equity shares are not issued pursuant to acquisition of an asset.

(12) If the shares are issued pursuant to acquisition of an asset, the value of the asset, as determined by the valuation report, shall be carried in the balance sheet as per the Accounting Standards and such amount of the accounting value of the sweat equity shares that is in excess of the value of the asset acquired, as per the valuation report, shall be treated as a form of compensation to the employee or the director in the financial statements of the company.

*Explanation.*—For the purposes of this sub-rule, it is hereby clarified that the Accounting value shall be the fair value of the sweat equity shares as determined by a registered valuer under sub-rule (6).

(13) The Board of Directors shall, *inter alia*, disclose in the Directors' Report for the year in which such shares are issued, the following details of issue of sweat equity shares namely:—

- (a) the class of director or employee to whom sweat equity shares were issued;
- (b) the class of shares issued as Sweat Equity Shares;
- (c) the number of sweat equity shares issued to the directors, key managerial personnel or other employees showing separately the number of such shares issued to them, if any, for consideration other than cash and the individual names of allottees holding one per cent or more of the issued share capital;
- (d) the reasons or justification for the issue;
- (e) the principal terms and conditions for issue of sweat equity shares, including pricing



formula;

- (f) the total number of shares arising as a result of issue of sweat equity shares;
- (g) the percentage of the sweat equity shares of the total post issued and paid up share capital;
- (h) the consideration (including consideration other than cash) received or benefit accrued to the company from the issue of sweat equity shares;
- (i) the diluted Earnings Per Share (EPS) pursuant to issuance of sweat equity shares.

(14)(a) The company shall maintain a Register of Sweat Equity Shares in **Form No. SH.3** and shall forthwith enter therein the particulars of Sweat Equity Shares issued under section 54.

(b) The Register of Sweat Equity Shares shall be maintained at the registered office of the company or such other place as the Board may decide.

(c) The entries in the register shall be authenticated by the Company Secretary of the company or by any other person authorized by the Board for the purpose.

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1. Second proviso inserted by the Companies (Share Capital and Debentures) Third Amendment Rules, 2016, w.e.f. **19-7-2016**.

## **9. Issue and redemption of preference shares.**

(1) A company having a share capital may, if so authorised by its articles, issue preference shares subject to the following conditions, namely:—

- (a) the issue of such shares has been authorized by passing a special resolution in the general meeting of the company.
- (b) the company, at the time of such issue of preference shares, has no subsisting default in the redemption of preference shares issued either before or after the commencement of this Act or in payment of dividend due on any preference shares.

(2) A company issuing preference shares shall set out in the resolution, particulars in respect of the following matters relating to such shares, namely:—

- (a) the priority with respect to payment of dividend or repayment of capital *vis-a-vis* equity shares;
- (b) the participation in surplus fund;
- (c) the participation in surplus assets and profits, on winding-up which may remain after the entire capital has been repaid;
- (d) the payment of dividend on cumulative or non-cumulative basis;
- (e) the conversion of preference shares into equity shares;
- (f) the voting rights;
- (g) the redemption of preference shares.

(3) The explanatory statement to be annexed to the notice of the general meeting pursuant to section 102 shall, *inter alia*, provide the complete material facts concerned with and relevant to the issue of such shares, including—

- (a) the size of the issue and number of preference shares to be issued and nominal value of each share;
- (b) the nature of such shares *i.e.* cumulative or non-cumulative, participating or non-participating, convertible or non-convertible;
- (c) the objectives of the issue;
- (d) the manner of issue of shares;
- (e) the price at which such shares are proposed to be issued;

- (f) the basis on which the price has been arrived at;
  - (g) the terms of issue, including terms and rate of dividend on each share, etc.;
  - (h) the terms of redemption, including the tenure of redemption, redemption of shares at premium and if the preference shares are convertible, the terms of conversion;
  - (i) the manner and modes of redemption;
  - (j) the current shareholding pattern of the company;
  - (k) the expected dilution in equity share capital upon conversion of preference shares.
- (4) Where a company issues preference shares, the Register of Members maintained under section 88 shall contain the particulars in respect of such preference shareholder(s).
- (5) A company intending to list its preference shares on a recognized stock exchange shall issue such shares in accordance with the regulations made by the Securities and Exchange Board of India in this behalf.
- (6) A company may redeem its preference shares only on the terms on which they were issued or as varied after due approval of preference shareholders under section 48 of the Act and the preference shares may be redeemed:—
- (a) at a fixed time or on the happening of a particular event;
  - (b) any time at the company's option; or
  - (c) any time at the shareholder's option.

## **10. Issue and redemption of preference shares by company in infrastructural projects.**

A company engaged in the setting up and dealing with of infrastructural projects may issue preference shares for a period exceeding twenty years but not exceeding thirty years, subject to the redemption of a minimum ten per cent of such preference shares per year from the twenty first year onwards or earlier, on proportionate basis, at the option of the preference shareholders.

## **11. Instrument of transfer.**

- (1) An instrument of transfer of securities held in physical form shall be in Form **No.SH.4** and every instrument of transfer with the date of its execution specified thereon shall be delivered to the company within sixty days from the date of such execution.
- (2) In the case of a company not having share capital, provisions of sub-rule (1) shall apply as if the references therein to securities were references instead to the interest of the member in the company.
- (3) A company shall not register a transfer of partly paid shares, unless the company has given a notice in **Form No. SH.5** to the transferee and the transferee has given no objection to the transfer within two weeks from the date of receipt of notice.

## **12. Issue of employee stock options.**

A company, other than a listed company, which is not required to comply with Securities and Exchange Board of India Employee Stock Option Scheme Guidelines<sup>6</sup> shall not offer shares to its employees under a scheme of employees' stock option (hereinafter referred to as "Employees Stock Option Scheme"), unless it complies with the following requirements, namely:—

- (1) The issue of Employees Stock Option Scheme has been approved by the shareholders of the company by passing a special resolution.

*Explanation :* For the purposes of clause (b) of sub-section (1) of section 62 and this rule "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 but excluding an independent director; or
- (c) an employee as defined in clause (a) or (b) of a subsidiary, in India or outside India, or of a holding company of the company <sup>7</sup>\*\*\*] but does not include—
  - (i) an employee who is a promoter or a person belonging to the promoter group; or
  - (ii) 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:

<sup>8</sup> **[Provided that in case of a startup company, as defined in notification number GSR 180(E), dated 17<sup>th</sup> February, 2016 issued by the Department of Industrial Policy and Promotion, Ministry of Commerce and Industry Government of India, the conditions mentioned in sub-clauses (i) and (ii) shall not apply up to five years from the date of its incorporation or registration.]**

(2) The company shall make the following disclosures in the explanatory statement annexed to the notice for passing of the resolution—

- (a) the total number of stock options to be granted;
- (b) identification of classes of employees entitled to participate in the Employees Stock Option Scheme;
- (c) the appraisal process for determining the eligibility of employees to the Employees Stock Option Scheme;
- (d) the requirements of vesting and period of vesting;
- (e) the maximum period within which the options shall be vested;
- (f) the exercise price or the formula for arriving at the same;
- (g) the exercise period and process of exercise;
- (h) the Lock-in period, if any;
- (i) the maximum number of options to be granted per employee and in aggregate;
- (j) the method which the company shall use to value its options;
- (k) the conditions under which option vested in employees may lapse e.g. in case of termination of employment for misconduct;
- (l) the specified time period within which the employee shall exercise the vested options in the event of a proposed termination of employment or resignation of employee; and
- (m) a statement to the effect that the company shall comply with the applicable accounting standards.

(3) The companies granting option to its employees pursuant to Employees Stock Option Scheme will have the freedom to determine the exercise price in conformity with the applicable accounting policies, if any.

(4) The approval of shareholders by way of separate resolution shall be obtained by the company in case of—

- (a) grant of option to employees of subsidiary or holding company; or
- (b) grant of option 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.

(5)(a) The company may by special resolution, vary the terms of Employees Stock Option Scheme not yet exercised by the employees provided such variation is not prejudicial to the interests of the option holders.

(b) The notice for passing special resolution for variation of terms of Employees Stock Option Scheme

shall disclose full of the variation, the rationale therefor, and the details of the employees who are beneficiaries of such variation.

(6)(a) There shall be a minimum period of one year between the grant of options and vesting of option:

**Provided** that in a case where options are granted by a company under its Employees Stock Option Scheme in lieu of options held by the same person under an Employees Stock Option Scheme in another company, which has merged or amalgamated with the first mentioned company, the period during which the options granted by the merging or amalgamating company were held by him shall be adjusted against the minimum vesting period required under this clause;

(b) The company shall have the freedom to specify the lock-in period for the shares issued pursuant to exercise of option.

(c) The Employees 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 them, till shares are issued on exercise of option.

(7) The amount, if any, payable by the employees, at the time of grant of option—

(a) may be forfeited by the company if the option is not exercised by the employees within the exercise period; or

(b) the amount may be refunded to the employees if the options are not vested due to non-fulfilment of conditions relating to vesting of option as per the Employees Stock Option Scheme.

(8)(a) The option granted to employees shall not be transferable to any other person.

(b) The option granted to the employees shall not be pledged, hypothecated, mortgaged or otherwise encumbered or alienated in any other manner.

(c) Subject to clause (d), no person other than the employees to whom the option is granted shall be entitled to exercise the option.

(d) In the event of the death of employee while in employment, all *the options* granted to him till such date shall vest in the legal heirs or nominees of the deceased employee.

(e) In case the employee suffers a permanent incapacity while in employment, all the options granted to him as on the date of permanent incapacitation, shall vest in him on that day.

(f) In the event of resignation or termination of employment, all options not vested in the employee as on that day shall expire. However, the employee can exercise the options granted to him which are vested within the period specified in this behalf, subject to the terms and conditions under the scheme granting such options as approved by the Board.

(9) The Board of directors, shall, *inter alia*, disclose in the Directors' Report for the year, the following details of the Employees Stock Option Scheme:

(a) options granted;

(b) options vested;

(c) options exercised;

(d) the total number of shares arising as a result of exercise of option;

(e) options lapsed;

(f) the exercise price;

(g) variation of terms of options;

(h) money realized by exercise of options;

(i) total number of options in force;

(j) employee wise details of options granted to:—

(i) key managerial personnel.

(ii) any other employee who receives a grant of options in any one year of option amounting to five per cent or more of options granted during that year.

- (iii) identified employees who were granted option, 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.

(10) (a) The company shall maintain a Register of Employee Stock Options in **Form No. SH.6** and shall forthwith enter therein the particulars of option granted under clause (b) of sub-section (1) of section 62.

(b) The Register of Employee Stock Options shall be maintained at the registered office of the company or such other place as the Board may decide.

(c) The entries in the register shall be authenticated by the company secretary of the company or by any other person authorized by the Board for the purpose.

(11) Where the equity shares of the company are listed on a recognized stock exchange, the Employees Stock Option Scheme shall be issued, in accordance with the regulations made by the Securities and Exchange Board of India in this behalf.

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6. Now SEBI (Share Based Employees Benefits) Regulations, 2014.

7. Words "or of an associate company" omitted by the Companies (Share Capital and Debentures) Amendment Rules, 2015, w.e.f. **18-3-2015**.

8. Proviso inserted by the Companies (Share Capital and Debentures) Third Amendment Rules, 2016, w.e.f. **19-7-2016**.

### **Issue of shares on preferential basis**

**13.** (1) For the purposes of clause (c) of sub-section (1) of section 62, if authorized by a special resolution passed in a general meeting, shares may be issued by any company in any manner whatsoever including by way of a preferential offer, to any persons whether or not those persons include the persons referred to in clause (a) or clause (b) of sub-section (1) of section 62 and such issue on preferential basis should also comply with conditions laid down in section 42 of the Act:

<sup>8</sup> **[Provided that in case of any preferential offer made by a company to one or more existing members only, the provisions of sub-rule (1) and proviso to sub-rule (3) of rule 14 of Companies (Prospectus and Allotment of Securities) Rules, 2014 shall not apply : ]**

**Provided <sup>8</sup> [further]** that the price of shares to be issued on a preferential basis by a listed company shall not be required to be determined by the valuation report of a registered valuer.

*Explanation.*—For the purposes of this rule, (i) the expression 'Preferential Offer' means an issue of shares or other securities, by a company to any select person or group of persons on a preferential basis and does not include shares or other securities offered through a public issue, rights issue, employee stock option scheme, employee stock purchase scheme or an issue of sweat equity shares or bonus shares or depository receipts issued in a country outside India or foreign securities;

(ii) the expression, "shares or other securities" means equity shares, fully convertible debentures, partly convertible debentures or any other securities, which would be convertible into or exchanged with equity shares at a later date.

(2) Where the preferential offer of shares or other securities is made by a company whose share or other securities are listed on a recognized stock exchange, such preferential offer shall be made in accordance with the provisions of the Act and regulations made by the Securities and Exchange Board, and if they are not listed, the preferential offer shall be made in accordance with the provisions of the Act and rules made hereunder and subject to compliance with the following requirements, namely:—

- (a) the issue is authorized by its articles of association;
- (b) the issue has been authorized by a special resolution of the members;

(c) [8a\[\\*\\*\\*\]](#)

(d) The company shall make the following disclosures in the explanatory statement to be annexed to the notice of the general meeting pursuant to section 102 of the Act:

- (i) the objects of the issue;
- (ii) the total number of shares or other securities to be issued;
- (iii) the price or price band at/within which the allotment is proposed;
- (iv) basis on which the price has been arrived at along with report of the registered valuer;
- (v) relevant date with reference to which the price has been arrived at;
- (vi) the class or classes of persons to whom the allotment is proposed to be made;
- (vii) intention of promoters, directors or key managerial personnel to subscribe to the offer;
- (viii) the proposed time within which the allotment shall be completed;
- (ix) the names of the proposed allottees and the percentage of post preferential offer capital that may be held by them;
- (x) the change in control, if any, in the company that would occur consequent to the preferential offer;
- (xi) the number of persons to whom allotment on preferential basis have already been made during the year, in terms of number of securities as well as price;
- (xii) the justification for the allotment proposed to be made for consideration other than cash together with valuation report of the registered valuer;
- (xiii) The pre issue and post issue shareholding pattern of the company in the following format—

<i>Sr. No.</i>	<i>Category</i>	<i>Pre Issue</i>		<i>Post Issue</i>	
		<i>No. of Shares held</i>	<i>% of shareholding</i>	<i>No. of shares held</i>	<i>% of shareholding</i>
A	<b>Promoters' holding</b>				
	:				
1	Indian :				
	Individual				
	<b>Bodies Corporate</b>				
	<b>Sub-Total</b>				
2	Foreign Promoters				
	<b>Sub-Total (A)</b>				
B	<b>Non-Promoters'</b>				
	<b>holding :</b>				
1.	Institutional				
	Investors				
2.	Non-Institution :				
	Private Corporate				
	Bodies				
	Directors and				
	Relatives				
	Indian Public				
	Others (Including				
	NRI's)				
	<b>Sub-Total (B)</b>				
	<b>GRAND TOTAL</b>				

- (e) the allotment of securities on a preferential basis made pursuant to the special resolution passed pursuant to sub-rule (2)(b) shall be completed within a period of twelve months from the date of passing of the special resolution.

- (f) if the allotment of securities is not completed within twelve months from the date of passing of the special resolution, another special resolution shall be passed for the company to complete such allotment thereafter.
  - (g) the price of the shares or other securities to be issued on a preferential basis, either for cash or for consideration other than cash, shall be determined on the basis of valuation report of a registered valuer;
  - (h) where convertible securities are offered on a preferential basis with an option to apply for and get equity shares allotted, the price of the resultant shares shall be determined beforehand on the basis of a valuation report of a registered valuer and also complied with the provisions of section 62 of the Act;
- 8aa [ *where convertible securities are offered on a preferential basis with an option to apply for and get equity shares allotted, the price of the resultant shares pursuant to conversion shall be determined—*
- (i) *either upfront at the time when the offer of convertible securities is made, on the basis of valuation report of the registered valuer given at the stage of such offer, or*
  - (ii) *at the time, which shall not be earlier than thirty days to the date when the holder of convertible security becomes entitled to apply for shares, on the basis of valuation report of the registered valuer given not earlier than sixty days of the date when the holder of convertible security becomes entitled to apply for shares:*
- Provided** *that the company shall take a decision on sub-clauses (i) or (ii) at the time of offer of convertible security itself and make such disclosure under sub-clause (v) of clause (d) of sub-rule (2) of this rule.]*
- (i) where shares or other securities are to be allotted for consideration other than cash, the valuation of such consideration shall be done by a registered valuer who shall submit a valuation report to the company giving justification for the valuation;
  - (j) where the preferential offer of shares is made for a non-cash consideration, such non-cash consideration shall be treated in the following manner in the books of account of the company—
  - (i) 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 accounting standards; or
  - (ii) where clause (i) is not applicable, it shall be expensed as provided in the accounting standards.

<sup>2</sup>[*Explanation.*—For the purposes of these rules, it is hereby clarified that, till a registered valuer is appointed in accordance with the provisions of the Act, the valuation report shall be made by an independent merchant banker who is registered with the Securities and Exchange Board of India or an independent Chartered Accountant in practice having a minimum experience of ten years.]

<sup>2</sup>[(3) The price of shares or other securities to be issued on preferential basis shall not be less than the price determined on the basis of valuation report of a registered valuer.]

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8. Inserted by the Companies (Share Capital and Debentures) Amendment Rules, 2015, w.e.f. **18-3-2015**.

8a. Clause (c) omitted by the Companies (Share Capital and Debentures) Third Amendment Rules, 2016, w.e.f. **19-7-2016**. Prior to its omission, said clause read as under :

"(c) the securities allotted by way of preferential offer shall be made fully paid up at the time of their allotment."

8aa. Clause (h) substituted by the Companies (Share Capital and Debentures) Third

Amendment Rules, 2016, w.e.f. **19-7-2016**. Prior to its substitution, said clause read as under :

"(h) where convertible securities are offered on a preferential basis with an option to apply for and get equity shares allotted, the price of the resultant shares shall be determined beforehand on the basis of a valuation report of a registered valuer and also complied with the provisions of section 62 of the Act;"

9. Inserted by the Companies (Share Capital and Debentures) Amendment Rules, 2014, w.e.f. 18-6-2014.

### **Issue of Bonus Shares**

**14.** The company which has once announced the decision of its Board recommending a bonus issue, shall not subsequently withdraw the same.

### **Notice to Registrar for alteration of share capital**

**15.** Where a company alters its share capital in any manner specified in sub-section (1) of section 61, or an order is passed by the Government increasing the authorized capital of the company in pursuance of sub-section (4) read with sub-section (6) of section 62 or a company redeems any redeemable preference shares, <sup>1</sup>*[or a company not having share capital increases number of its members]* the notice of such alteration, increase or redemption shall be filed by the company with the Registrar in **Form No. SH.7** along with the fee.

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1. Inserted by the Companies (Share Capital and Debentures) Third Amendment Rules, 2016, w.e.f. **19-7-2016**.

### **Provision of money by company for purchase of its own shares by employees or by trustees for the benefit of employees.**

**16.** (1) The company shall not make a provision of money for the purchase of, or subscription for, shares in the company or its holding company, if the purchase of, or the subscription for, the shares by trustees is for the shares to be held by or for the benefit of the employees of the company, unless it complies with the following conditions, namely:—

- (a) the scheme of provision of money for purchase of or subscription for the shares as aforesaid is approved by the members by passing special resolution in a general meeting;
- (b) such purchase of shares shall be made only through a recognized stock exchange in case the shares of the company are listed and not by way of private offers or arrangements;
- (c) where shares of a company are not listed on a recognized stock exchange, the valuation at which shares are to be purchased shall be made by a registered valuer;
- (d) the value of shares to be purchased or subscribed in the aggregate together with the money provided by the company shall not exceed five per cent, of the aggregate of paid up capital and free reserves of the company.

(2) The explanatory statement to be annexed to the notice of the general meeting to be convened pursuant to section 102 shall, in addition to the particulars mentioned in sub-rule (1) of rule 18, contain the following particulars, namely:—

- (a) the class of employees for whose benefit the scheme is being implemented and money is being provided for purchase of or subscription to shares;

- (b) the particulars of the trustee or employees in whose favour such shares are to be registered;
  - (c) the particulars of trust and name, address, occupation and nationality of trustees and their relationship with the promoters, directors or key managerial personnel, if any;
  - (d) any interest of key managerial personnel, directors or promoters in such scheme or trust and effect thereof;
  - (e) the detailed particulars of benefits which will accrue to the employees from the implementation of the scheme;
  - (f) the details about who would exercise and how the voting rights in respect of the shares to be purchased or subscribed under the scheme would be exercised;
- (3) A person shall not be appointed as a trustee to hold such shares, if he—
- (a) is a director, key managerial personnel or promoter of the company or its holding, subsidiary or associate company or any relative of such director, key managerial personnel or promoter; or
  - (b) beneficially holds ten per cent or more of the paid-up share capital of the company.
- (4) Where the voting rights are not exercised directly by the employees in respect of shares to which the scheme relates, the Board of Directors shall, *inter alia*, disclose in the Board's report for the relevant financial year the following details, namely:—
- (a) the names of the employees who have not exercised the voting rights directly;
  - (b) the reasons for not voting directly;
  - (c) the name of the person who is exercising such voting rights;
  - (d) the number of shares held by or in favour of, such employees and the percentage of such shares to the total paid up share capital of the company;
  - (e) the date of the general meeting in which such voting power was exercised;
  - (f) the resolutions on which votes have been cast by persons holding such voting power;
  - (g) the percentage of such voting power to the total voting power on each resolution;
  - (h) whether the votes were cast in favour of or against the resolution.

### **Buy-back of shares or other securities.**

**17.** Unless stated otherwise, the following norms shall be complied with by the private companies and unlisted public companies for buy-back of their securities—

(1) The explanatory statement to be annexed to the notice of the general meeting pursuant to section 102 shall contain the following disclosures, namely:—

- (a) the date of the board meeting at which the proposal for buy-back was approved by the board of directors of the company;
- (b) the objective of the buy-back;
- (c) the class of shares or other securities intended to be purchased under the buy-back;
- (d) the number of securities that the company proposes to buy-back;
- (e) the method to be adopted for the buy-back;
- (f) the price at which the buy-back of shares or other securities shall be made;
- (g) the basis of arriving at the buy-back price;
- (h) the maximum amount to be paid for the buy-back and the sources of funds from which the buy-back would be financed;
- (i) the time-limit for the completion of buy-back;
- (j) (i) the aggregate shareholding of the promoters and of the directors of the promoter, where the promoter is a company and of the directors and key managerial personnel



- as on the date of the notice convening the general meeting;
- (ii) the aggregate number of equity shares purchased or sold by persons mentioned in sub-clause (i) during a period of twelve months preceding the date of the board meeting at which the buy-back was approved and from that date till the date of notice convening the general meeting;
- (iii) the maximum and minimum price at which purchases and sales referred to in sub-clause (ii) were made along with the relevant date;
- (k) if the persons mentioned in sub-clause (i) of clause (j) intend to tender their shares for buy-back—
  - (i) the quantum of shares proposed to be tendered;
  - (ii) the details of their transactions and their holdings for the last twelve months prior to the date of the board meeting at which the buy-back was approved including information of number of shares acquired, the price and the date of acquisition;
- (l) a confirmation that there are no defaults subsisting in repayment of deposits, interest payment thereon, redemption of debentures or payment of interest thereon or redemption of preference shares or payment of dividend due to any shareholder, or repayment of any term loans or interest payable thereon to any financial institution or banking company;
- (m) a confirmation that the Board of directors have made a full enquiry into the affairs and prospects of the company and that they have formed the opinion—
  - (i) that immediately following the date on which the general meeting is convened there shall be no grounds on which the company could be found unable to pay its debts;
  - (ii) as regards its prospects for the year immediately following that date, that, having regard to their intentions with respect to the management of the company's business during that year and to the amount and character of the financial resources which will in their view be available to the company during that year, the company shall be able to meet its liabilities as and when they fall due and shall not be rendered insolvent within a period of one year from that date; and
- (iii) the directors have taken into account the liabilities (including prospective and contingent liabilities), as if the company were being wound up under the provisions of the Companies Act, 2013
- (n) a report addressed to the Board of directors by the company's auditors stating that—
  - (i) they have inquired into the company's state of affairs;
  - (ii) the amount of the permissible capital payment for the securities in question is in their view properly determined;
  - (iii) that the audited accounts on the basis of which calculation with reference to buy back is done is not more than six months old from the date of offer document:
 

<sup>1</sup> **[Provided that where the audited accounts are more than six months old, the calculations with reference to buy back shall be on the basis of un-audited accounts not older than six months from the date of offer document which are subjected to limited review by the auditors of the company.]**
- (iv) the Board of directors have formed the opinion as specified in clause (m) on reasonable grounds and that the company, having regard to its state of affairs, shall not be rendered insolvent within a period of one year from that date.

(2) The company which has been authorized by a special resolution shall, before the buy-back of shares, file with the Registrar of Companies a letter of offer in **Form No. SH.8**, along with the fee:

**Provided** that such letter of offer shall be dated and signed on behalf of the Board of directors of the company by not less than two directors of the company, one of whom shall be the managing director, where there is one.



(3) The company shall file with the Registrar, along with the letter of offer, and in case of a listed company with the Registrar and the Securities and Exchange Board, a declaration of solvency in **Form No. SH.9** along with the fee and signed by at least two directors of the company, one of whom shall be the managing director, if any, and verified by an affidavit as specified in the said Form.

(4) The letter of offer shall be dispatched to the shareholders or security holders immediately after filing the same with the Registrar of Companies but not later than twenty days from its filing with the Registrar of Companies.

(5) The offer for buy-back shall remain open for a period of not less than fifteen days and not exceeding thirty days from the date of dispatch of the letter of offer:

<sup>2</sup> **[Provided that where all members of a company agree, the offer for buy-back may remain open for a period less than fifteen days.]**

(6) In case the number of shares or other specified securities offered by the shareholders or security holders is more than the total number of shares or securities to be bought back by the company, the acceptance per shareholder shall be on proportionate basis out of the total shares offered for being bought back:

(7) The company shall complete the verifications of the offers received within fifteen days from the date of closure of the offer and the shares or other securities lodged shall be deemed to be accepted unless a communication of rejection is made within twenty one days from the date of closure of the offer.

(8) The company shall immediately after the date of closure of the offer, open a separate bank account and deposit therein, such sum, as would make up the entire sum due and payable as consideration for the shares tendered for buy-back in terms of these rules.

(9) The company shall within seven days of the time specified in sub-rule (7) —

- (a) make payment of consideration in cash to those shareholders or security holders whose securities have been accepted; or
- (b) return the share certificates to the shareholders or security holders whose securities have not been accepted at all or the balance of securities in case of part acceptance.

(10) The company shall ensure that—

- (a) the letter of offer shall contain true, factual and material information and shall not contain any misleading information and must state that the directors of the company accept the responsibility for the information contained in such document;
- (b) the company shall not issue any new shares including by way of bonus shares from the date of passing of special resolution authorizing the buy-back till the date of the closure of the offer under these rules, except those arising out of any outstanding convertible instruments;
- (c) the company shall confirm in its offer the opening of a separate bank account adequately funded for this purpose and to pay the consideration only by way of cash;
- (d) the company shall not withdraw the offer once it has announced the offer to the shareholders;
- (e) the company shall not utilize any money borrowed from banks or financial institutions for the purpose of buying back its shares; and
- (f) the company shall not utilize the proceeds of an earlier issue of the same kind of shares or same kind of other specified securities for the buy-back.

(12)(a) The company, shall maintain a register of shares or other securities which have been bought-back in **Form No. SH.10**.

(b) The register of shares or securities bought-back shall be maintained at the registered office of the company and shall be kept in the custody of the secretary of the company or any other person authorized

by the board in this behalf.

(c) The entries in the register shall be authenticated by the secretary of the company or by any other person authorized by the Board for the purpose.

(13) The company, after the completion of the buy-back under these rules, shall file with the Registrar, and in case of a listed company with the Registrar and the Securities and Exchange Board of India, a return in the **Form No. SH.11** along with the fee .

(14) There shall be annexed to the return filed with the Registrar in **Form No. SH.11**, a certificate in **Form No. SH.15** signed by two directors of the company including the managing director, if any, certifying that the buy-back of securities has been made in compliance with the provisions of the Act and the rules made thereunder.

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- [1.](#) Proviso inserted by the Companies (Share Capital and Debentures) Amendment Rules, 2016, w.e.f. **10-3-2016**.
  - [2.](#) Proviso inserted by the Companies (Share Capital and Debentures) Second Amendment Rules, 2016, w.e.f. **29-3-2016**.

## Debentures

**18.** (1) The company shall not issue secured debentures, unless it complies with the following conditions, namely:—

- (a) An issue of secured debentures may be made, provided the date of its redemption shall not exceed ten years from the date of issue :  
[10](#) [ **Provided** that the following classes of companies may issue secured debentures for a period exceeding ten years but not exceeding thirty years,
  - (i) Companies engaged in setting up of infrastructure projects;
  - (ii) 'Infrastructure Finance Companies' as defined in clause (viiia) of sub-direction (1) of direction 2 of Non-Banking Financial (Non-deposit Accepting or Holding) Companies Prudential Norms (Reserve Bank) Directions, 2007;
  - [10a](#) [ *'Infrastructure Debt Fund Non-Banking Financial Companies' as defined in clause (b) of direction 3 of Infrastructure Debt Fund Non-Banking Financial Companies (Reserve Bank) Directions, 2011;*
  - (iv) *Companies permitted by a Ministry or Department of the Central Government or by Reserve Bank of India or by the National Housing Bank or by any other statutory authority to issue debentures for a period exceeding ten years.]*
- [11](#) [ *Such an issue of debentures shall be secured by the creation of a charge on the properties or assets of the company or its subsidiaries or its holding company or its associates companies, having a value which is sufficient for the due repayment of the amount of debentures and interest thereon.]*
- (b) the company shall appoint a debenture trustee before the issue of prospectus or letter of offer for subscription of its debentures and not later than sixty days after the allotment of the debentures, execute a debenture trust deed to protect the interest of the debenture holders; and
- (d) the security for the debentures by way of a charge or mortgage shall be created in favour of the debenture trustee on—  
[11a](#) [
  - (i) *any specific movable property of the company or its holding company or subsidiaries or associate companies or otherwise.]*
  - (ii) *any specific immovable property wherever situate, or any interest therein:*  
**Provided** that in case of a non-banking financial company, the charge or mortgage

*under sub-clause (i) may be created on any movable property :]*

<sup>12</sup> **[Provided further\****that in case of any issue of debentures by a Government company which is fully secured by the guarantee given by the Central Government or one or more State Government or by both, the requirement for creation of charge under this sub-rule shall not apply :*

**Provided also†***that in case of any loan taken by a subsidiary company from any bank or financial institution the charge or mortgage under this sub-rule may also be created on the properties or assets of the holding company.]*

(2) The company shall appoint debenture trustees under sub-section (5) of section 71, after complying with the following conditions, namely:—

- (a) the names of the debenture trustees shall be stated in letter of offer inviting subscription for debentures and also in all the subsequent notices or other communications sent to the debenture holders;
- (b) before the appointment of debenture trustee or trustees, a written consent shall be obtained from such debenture trustee or trustees proposed to be appointed and a statement to that effect shall appear in the letter of offer issued for inviting the subscription of the debentures;
- (c) A person shall not be appointed as a debenture trustee, if he—
  - (i) beneficially holds shares in the company;
  - (ii) is a promoter, director or key managerial personnel or any other officer or an employee of the company or its holding, subsidiary or associate company;
  - (iii) is beneficially entitled to moneys which are to be paid by the company otherwise than as remuneration payable to the debenture trustee;
  - (iv) is indebted to the company, or its subsidiary or its holding or associate company or a subsidiary of such holding company;
  - (v) has furnished any guarantee in respect of the principal debts secured by the debentures or interest thereon;
  - (vi) has any pecuniary relationship with the company amounting to two per cent or more of its gross turnover or total income or fifty lakh rupees or such higher amount as may be prescribed, whichever is lower, during the two immediately preceding financial years or during the current financial year;
  - (vii) is relative of any promoter or any person who is in the employment of the company as a director or key managerial personnel.
- (d) the Board may fill any casual vacancy in the office of the trustee but while any such vacancy continues, the remaining trustee or trustees, if any, may act:  
**Provided** that where such vacancy is caused by the resignation of the debenture trustee, the vacancy shall only be filled with the written consent of the majority of the debenture holders.
- (e) any debenture trustee may be removed from office before the expiry of his term only if it is approved by the holders of not less than three fourth in value of the debentures outstanding, at their meeting.

(3) It shall be the duty of every debenture trustee to—

- (a) satisfy himself that the letter of offer does not contain any matter which is inconsistent with the terms of the issue of debentures or with the trust deed;
- (b) satisfy himself that the covenants in the trust deed are not prejudicial to the interest of the debenture holders;
- (c) call for periodical status or performance reports from the company;
- (d) communicate promptly to the debenture holders defaults, if any, with regard to payment of interest or redemption of debentures and action taken by the trustee

therefor;

- (e) appoint a nominee director on the Board of the company in the event of—
    - (i) two consecutive defaults in payment of interest to the debenture holders; or
    - (ii) default in creation of security for debentures; or
    - (iii) default in redemption of debentures.
  - (f) ensure that the company does not commit any breach of the terms of issue of debentures or covenants of the trust deed and take such reasonable steps as may be necessary to remedy any such breach;
  - (g) inform the debenture holders immediately of any breach of the terms of issue of debentures or covenants of the trust deed;
  - (h) ensure the implementation of the conditions regarding creation of security for the debentures, if any, and debenture redemption reserve;
  - (i) ensure that the assets of the company issuing debentures and of the guarantors, if any, are sufficient to discharge the interest and principal amount at all times and that such assets are free from any other encumbrances except those which are specifically agreed to by the debenture holders;
  - (j) do such acts as are necessary in the event the security becomes enforceable;
  - (k) call for reports on the utilization of funds raised by the issue of debentures;
  - (l) take steps to convene a meeting of the holders of debentures as and when such meeting is required to be held;
  - (m) ensure that the debentures have been converted or redeemed in accordance with the terms of the issue of debentures;
  - (n) perform such acts as are necessary for the protection of the interest of the debenture holders and do all other acts as are necessary in order to resolve the grievances of the debenture holders.
- (4) The meeting of all the debenture holders shall be convened by the debenture trustee on—
- (a) requisition in writing signed by debenture holders holding at least one-tenth in value of the debentures for the time being outstanding;
  - (b) the happening of any event, which constitutes a breach, default or which in the opinion of the debenture trustees affects the interest of the debenture holders.
- (5) For the purposes of sub-section (13) of section 71 and sub-rule (1) a trust deed in **Form No. SH.12** or as near thereto as possible shall be executed by the company issuing debentures in favour of the debenture trustees <sup>13</sup>[*within three months of closure of the issue or offer*].
- (6) The provisions of sub-rules (2) to (5) of rule 18 shall not be applicable to the public offer of debentures.
- (7) The company shall create a Debenture Redemption Reserve for the purpose of redemption of debentures, in accordance with the conditions given below—
- (a) the Debenture Redemption Reserve shall be created out of the profits of the company available for payment of dividend;
  - (b) the company shall create Debenture Redemption Reserve (DRR) in accordance with following conditions:—
    - (i) No DRR is required for debentures issued by All India Financial Institutions (AIFIs) regulated by Reserve Bank of India and Banking Companies for both public as well as privately placed debentures. For other Financial Institutions (FIs) within the meaning of clause (72) of section 2 of the Companies Act, 2013, DRR will be as applicable to NBFCs registered with RBI.
    - (ii) For NBFCs registered with the RBI under section 45-IA of the RBI (Amendment) Act, 1997 <sup>14</sup>[and for Housing Finance Companies registered with the National Housing

Bank], 'the adequacy' of DRR will be 25% <sup>14a</sup>[*of the value of outstanding debentures*] issued through public issue as per present SEBI (Issue and Listing of Debt Securities) Regulations, 2008, and no DRR is required in the case of privately placed debentures.

- (iii) For other companies including manufacturing and infrastructure companies, the adequacy of DRR will be 25% <sup>14aa</sup>[*of the value of outstanding debentures*] issued through public issue as per present SEBI (Issue and Listing of Debt Securities) Regulations, 2008 and also 25% DRR is required in the case of privately placed debentures by listed companies. For unlisted companies issuing debentures on private placement basis, the DRR will be 25% <sup>14ab</sup>[*of the value of outstanding debentures*]:  
<sup>14ac</sup> [**Provided** *that where a company intends to redeem its debentures prematurely, it may provide for transfer of such amount in Debenture Redemption Reserve as is necessary for redemption of such debentures even if it exceeds the limits specified in this sub-rule.*]

- (c) every company required to create Debenture Redemption Reserve shall on or before the 30th day of April in each year, invest or deposit, as the case may be, a sum which shall not be less than fifteen per cent, of the amount of its debentures maturing during the year ending on the 31st day of March of the next year, in any one or more of the following methods, namely:—

- (i) in deposits with any scheduled bank, free from any charge or lien;
- (ii) in unencumbered securities of the Central Government or of any State Government;
- (iii) in unencumbered securities mentioned in sub-clauses (a) to (d) and (ee) of section 20 of the Indian Trusts Act, 1882;
- (iv) in unencumbered bonds issued by any other company which is notified under sub-clause (f) of section 20 of the Indian Trusts Act, 1882;
- (v) the amount invested or deposited as above shall not be used for any purpose other than for redemption of debentures maturing during the year referred above:

**Provided** that the amount remaining invested or deposited, as the case may be, shall not at any time fall below fifteen per cent of the amount of the debentures maturing during the year ending on the 31st day of March of that year;

- (d) in case of partly convertible debentures, Debenture Redemption Reserve shall be created in respect of non-convertible portion of debenture issue in accordance with this sub-rule;
- (e) the amount credited to the Debenture Redemption Reserve shall not be utilised by the company except for the purpose of redemption of debentures.

(8) (a) A trust deed for securing any issue of debentures shall be open for inspection to any member or debenture holder of the company, in the same manner, to the same extent and on the payment of the same fees, as if it were the register of members of the company; and

(b) A copy of the trust deed shall be forwarded to any member or debenture holder of the company, at his request, within seven days of the making thereof, on payment of fee.

<sup>15</sup> [ (9) *Nothing contained in this rule shall apply to any amount received by a company against issue of commercial paper or any other similar instrument issued in accordance with the guidelines or regulations or notification issued by the Reserve Bank of India.*

(10) *In case of any offer of foreign currency convertible bonds or foreign currency bonds issued in accordance with the Foreign Currency Convertible Bonds and Ordinary Shares (Through Depository Receipt Mechanism) Scheme, 1993 or regulations or directions issued by the Reserve Bank of India, the provisions of this rule shall not apply unless otherwise provided in such Scheme or regulations or directions. ]*

<sup>16</sup> [ (11) *Nothing contained in this rule shall apply to rupee denominated bonds issued exclusively to*



- [10.](#) Substituted by the Companies (Share Capital and Debentures) Amendment Rules, 2014, w.e.f. 18-6-2014. Prior to its substitution, proviso read as under :

"**Provided** that a company engaged in the setting up of infrastructure projects may issue secured debentures for a period exceeding ten years but not exceeding thirty years;"

- [10a.](#) Sub-clause (iii) substituted by the Companies (Share Capital and Debentures) Third Amendment Rules, 2015, w.e.f. **6-11-2015**. Prior to its substitution, said sub-clause read as under :

"(iii) 'Infrastructure Debt Fund Non-Banking Financial Companies' as defined in clause (b) of direction 3 of Infrastructure Debt Fund Non-Banking Financial Companies (Reserve Bank) Directions, 2011;"

- [11.](#) Clause (b) substituted by the Companies (Share Capital and Debentures) Third Amendment Rules, 2016, w.e.f. **19-7-2016**. Prior to its substitution, said clause read as under :

"(b) such an issue of debentures shall be secured by the creation of a charge, on the properties or assets of the company, having a value which is sufficient for the due repayment of the amount of debentures and interest thereon;"

- [11a.](#) Sub-clause (i) substituted by the Companies (Share Capital and Debentures) Third Amendment Rules, 2016, w.e.f. **19-7-2016**. Prior to its substitution, said sub-clause, as amended by the Companies (Share Capital and Debentures) Amendment Rules, 2013, w.e.f. 18-3-2015, read as under :

"(i) any specific movable property of the company; or"

- [12.](#) Inserted, *ibid*.

\*Word "further" be omitted.

†Word "also" be read as "further".

- [13.](#) Substituted for "within sixty days of allotment of debentures" by the Companies (Share Capital and Debentures) Amendment Rules, 2015, w.e.f. **18-3-2015**.

- [14.](#) Inserted by the Companies (Share Capital and Debentures) Amendment Rules, 2014, w.e.f. 18-6-2014.

- [14a.](#) Substituted for "of the value of debentures" by the Companies (Share Capital and Debentures) Third Amendment Rules, 2016, w.e.f. **19-7-2016**.

- [14aa.](#) Substituted for "of the value of debentures" by the Companies (Share Capital and Debentures) Third Amendment Rules, 2016, w.e.f. **19-7-2016**.

- [14ab.](#) Substituted for "of the value of debentures issued" by the Companies (Share Capital and Debentures) Third Amendment Rules, 2016, w.e.f. **19-7-2016**.

- [14ac.](#) Proviso inserted by the Companies (Share Capital and Debentures) Third Amendment Rules, 2016, w.e.f. **19-7-2016**.

- [15.](#) Inserted by the Companies (Share Capital and Debentures) Amendment Rules, 2015, w.e.f. **18-3-2015**.

- [16.](#) Sub-rule (11) inserted by the Companies (Share Capital and Debentures) Fourth Amendment Rules, 2016, w.e.f. **12-8-2016**.

### **Nomination by securities holders.**

**19.** (1) Any holder of securities of a company may, at any time, nominate, in **Form No. SH.13**, any person as his nominee in whom the securities shall vest in the event of his death.

(2) On the receipt of the nomination form, a corresponding entry shall forthwith be made in the relevant register of securities holders, maintained under section 88.

(3) Where the nomination is made in respect of the securities held by more than one person jointly, all joint holders shall together nominate in **Form No. SH.13** any person as nominee.

(4) The request for nomination should be recorded by the Company within a period of two months from the date of receipt of the duly filled and signed nomination form.

(5) In the event of death of the holder of securities or where the securities are held by more than one person jointly, in the event of death of all the joint holders, the person nominated as the nominee may upon the production of such evidence as may be required by the Board, elect, either—

(a) to register himself as holder of the securities; or

(b) to transfer the securities, as the deceased holder could have done.

(6) If the person being a nominee, so becoming entitled, elects to be registered as holder of the securities himself, he shall deliver or send to the company a notice in writing signed by him stating that he so elects and such notice shall be accompanied with the death certificate of the deceased share or debenture holder(s).

(7) All the limitations, restrictions and provisions of the Act relating to the right to transfer and the registration of transfers of securities shall be applicable to any such notice or transfer as aforesaid as if the death of the share or debenture holder had not occurred and the notice or transfer were a transfer signed by that shareholder or debenture holder, as the case may be.

(8) A person, being a nominee, becoming entitled to any securities by reason of the death of the holder shall be entitled to the same dividends or interests and other advantages to which he would have been entitled to if he were the registered holder of the securities except that he shall not, before being registered as a holder in respect of such securities, be entitled in respect of these securities to exercise any right conferred by the membership in relation to meetings of the company:

**Provided** that the Board may, at any time, give notice requiring any such person to elect either to be registered himself or to transfer the securities, and if the notice is not complied with within ninety days, the Board may thereafter withhold payment of all dividends or interests, bonuses or other moneys payable in respect of the securities, as the case may be, until the requirements of the notice have been complied with.

(9) A nomination may be cancelled, or varied by nominating any other person in place of the present nominee, by the holder of securities who has made the nomination, by giving a notice of such cancellation or variation, to the company in **Form No. SH.14**.

(10) The cancellation or variation shall take effect from the date on which the notice of such variation or cancellation is received by the company.

(11) Where the nominee is a minor, the holder of the securities, making the nomination, may appoint a person in <sup>16</sup>**[Form No. SH.13]** specified under sub-rule (1), who shall become entitled to the securities of the company, in the event of death of the nominee during his minority.

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<sup>16</sup> Substituted for "Form No. SH.14" by the Companies (Share Capital and Debentures) Amendment Rules, 2015, w.e.f. **18-3-2015**.

## **DEPOSITORIES (PROCEDURE FOR HOLDING INQUIRY AND IMPOSING PENALTIES <sup>1</sup>[\*\*\*)] RULES, 2005**

*In exercise of the powers conferred by <sup>2</sup> [ sub-section (1) and ] clause (a) of sub-section (2) of section 24 of the Depositories Act, 1996 (22 of 1996), the Central Government hereby makes the following rules for holding inquiry for the purpose of imposing penalty under sections 19A, 19B, 19C, 19D, 19E, 19F , <sup>3</sup>[19FA] and 19G of the Act, namely :—*

### **Short title and commencement**

**1.** (1) These rules may be called the Depositories (Procedure for Holding Inquiry and Imposing Penalties <sup>4</sup>[\*\*\*)] Rules, 2005.

(2) They shall come into force on the date of their publication in the Official Gazette.

### **Definitions**

**2.** (1) In these rules, unless the context otherwise requires,—

- (a) "Act" means the Depositories Act, 1996 (22 of 1996);
- (b) "adjudicating officer" means the officer appointed by the Board as adjudicating officer under section 19H of the Act;
- (c) "inquiry" means the inquiry referred in <sup>5</sup>[sub-section (2) of section 19 or section 19H of the Act].

(2) Words and expressions used herein and not defined in these rules but defined in the Depositories Act, 1996 shall have the same meanings respectively assigned to them under that Act.

### **Appointment of adjudicating officer for holding inquiry**

**3.** Whenever the Board is of the opinion that there are grounds for adjudging under sections 19A, 19B, 19C, 19D, 19E, 19F and 19G of the Act, it may appoint any of its officer not below the rank of Division Chief to be an adjudicating officer for holding an inquiry for the said purpose.

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<sup>1</sup> Words "by Adjudicating Officer" omitted by the Depositories (Procedure for Holding Inquiry and Imposing Penalties by Adjudicating Officer) (Amendment) Rules, 2019, w.e.f. 8-3-2019.

<sup>2</sup> Inserted by Depositories (Procedure for Holding Inquiry and Imposing Penalties by Adjudicating Officer) (Amendment) Rules, 2019, w.e.f. 8-3-2019.

<sup>3</sup> Inserted by Depositories (Procedure for Holding Inquiry and Imposing Penalties by Adjudicating Officer) (Amendment) Rules, 2019, w.e.f. 8-3-2019.

<sup>4</sup> Words "by Adjudicating Officer" omitted by the Depositories (Procedure for Holding Inquiry and Imposing Penalties by Adjudicating Officer) (Amendment) Rules, 2019, w.e.f. 8-3-2019.

<sup>5</sup> Substituted for "section 19H" by the Depositories (Procedure for Holding Inquiry and Imposing Penalties by Adjudicating Officer) (Amendment) Rules, 2019, w.e.f. 8-3-2019.



### **Holding of inquiry**

4. (1) In holding an inquiry for the purpose of adjudging under sections 19A, 19B, 19C, 19D, 19E, 19F <sup>6</sup>[ 19FA] and 19G whether any person has committed contraventions as specified in any of sections 19A, 19B, 19C, 19D, 19E, 19F <sup>7</sup>[ 19FA] and 19G, the <sup>8</sup>[Board or the adjudicating officer] shall, in the first instance, issue a notice to such person requiring him to show cause within such period as may be specified in the notice (being not less than fourteen days from the date of service thereof) why an inquiry should not be held against him.

(2) Every notice under sub-rule (1) to any such person shall indicate the nature of offence alleged to have been committed by him.

(3) If after considering the cause, if any, shown by such person, the <sup>9</sup>[Board or the adjudicating officer] is of the opinion that an inquiry should be held, he shall issue a notice fixing a date for the appearance of that person either personally or through his lawyer or other authorised representative.

(4) On the date fixed, the <sup>10</sup>[Board or the adjudicating officer] shall explain to the person proceeded against or his lawyer or authorised representative, the offence, alleged to have been committed by such person indicating the provisions of the Act, rules or regulations in respect of which contravention is alleged to have taken place.

(5) The <sup>11</sup>[Board or the adjudicating officer] shall then give an opportunity to such person to produce such documents or evidence as he may consider relevant to the inquiry and if necessary the hearing may be adjourned to a future date and in taking such evidence the <sup>12</sup>[Board or the adjudicating officer] shall not be bound to observe the provisions of the Evidence Act, 1872 (11 of 1872) :

**Provided** that the notice referred to in sub-rule (3), and the personal hearing referred in sub-rules (3), (4) and (5) may, at the request of the person concerned, be waived.

(6) While holding an inquiry under this rule the <sup>13</sup>[Board or the adjudicating officer] shall have the power to summon and enforce the attendance of any person acquainted with the facts and circumstances of the case to give evidence or to produce any document which in

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<sup>6</sup> Inserted by the Depositories (Procedure for Holding Inquiry and Imposing Penalties by Adjudicating Officer) (Amendment) Rules, 2019, w.e.f. 8-3-2019.

<sup>7</sup> Inserted by the Depositories (Procedure for Holding Inquiry and Imposing Penalties by Adjudicating Officer) (Amendment) Rules, 2019, w.e.f. 8-3-2019.

<sup>8</sup> Substituted for "adjudicating officer" by the Depositories (Procedure for Holding Inquiry and Imposing Penalties by Adjudicating Officer) (Amendment) Rules, 2019, w.e.f. 8-3-2019

<sup>9</sup> Substituted for "adjudicating officer" by the Depositories (Procedure for Holding Inquiry and Imposing Penalties by Adjudicating Officer) (Amendment) Rules, 2019, w.e.f. 8-3-2019.

<sup>10</sup> Substituted for "adjudicating officer" by the Depositories (Procedure for Holding Inquiry and Imposing Penalties by Adjudicating Officer) (Amendment) Rules, 2019, w.e.f. 8-3-2019.

<sup>11</sup> Substituted for "adjudicating officer" by the Depositories (Procedure for Holding Inquiry and Imposing Penalties by Adjudicating Officer) (Amendment) Rules, 2019, w.e.f. 8-3-2019.

<sup>12</sup> Substituted for "adjudicating officer" by the Depositories (Procedure for Holding Inquiry and Imposing Penalties by Adjudicating Officer) (Amendment) Rules, 2019, w.e.f. 8-3-2019.

<sup>13</sup> Substituted for "adjudicating officer" by the Depositories (Procedure for Holding Inquiry and Imposing Penalties by Adjudicating Officer) (Amendment) Rules, 2019, w.e.f. 8-3-2019.

the opinion of the <sup>14</sup>[*Board or the adjudicating officer*] may be useful for or relevant to the subject matter of the inquiry.

(7) If any person fails, neglects or refuses to appear as required by sub-rule (3) before the <sup>15</sup>[*Board or the adjudicating officer*], the <sup>16</sup>[*Board or the adjudicating officer*] may proceed with the inquiry in the absence of such person after recording the reasons for doing so.

#### **Order of the <sup>17</sup> [*Board or the adjudicating officer*]**

5. (1) If, upon consideration of the evidence produced before the <sup>18</sup>[*Board or the adjudicating officer*], the <sup>19</sup>[*Board or the adjudicating officer*] is satisfied that the person has become liable to penalty under any of the sections specified in sub-section (1) or <sup>20</sup>[*sub-section (2) of section 19 or section 19H*] of the Act, he may, by order in writing, impose such penalty as he thinks fit in accordance with the provisions of the relevant section or sections specified in <sup>21</sup>[*sub-section (2) of section 19 or section 19H*] of the Act.

(2) While adjudging the quantum of penalty under <sup>22</sup>[*sub-section (2) of section 19 or section 19H*] of the Act, the <sup>23</sup>[*Board or the adjudicating officer*] shall have due regard to the following factors, namely :—

- (a) the amount of disproportionate gain or unfair advantage, wherever quantifiable, made as a result of the default;
- (b) the amount of loss caused to an investor or group of investors as a result of the default;
- (c) the repetitive nature of the default.

(3) Every order made under sub-rule (1) shall specify the provisions of the Act in respect of which default has taken place and shall contain brief reasons for such decisions.

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<sup>14</sup> Substituted for "adjudicating officer" by the Depositories (Procedure for Holding Inquiry and Imposing Penalties by Adjudicating Officer) (Amendment) Rules, 2019, w.e.f. 8-3-2019.

<sup>15</sup> Substituted for "adjudicating officer" by the Depositories (Procedure for Holding Inquiry and Imposing Penalties by Adjudicating Officer) (Amendment) Rules, 2019, w.e.f. 8-3-2019.

<sup>16</sup> Substituted for "adjudicating officer" by the Depositories (Procedure for Holding Inquiry and Imposing Penalties by Adjudicating Officer) (Amendment) Rules, 2019, w.e.f. 8-3-2019.

<sup>17</sup> Substituted for "adjudicating officer" by the Depositories (Procedure for Holding Inquiry and Imposing Penalties by Adjudicating Officer) (Amendment) Rules, 2019, w.e.f. 8-3-2019.

<sup>18</sup> Substituted for "adjudicating officer" by the Depositories (Procedure for Holding Inquiry and Imposing Penalties by Adjudicating Officer) (Amendment) Rules, 2019, w.e.f. 8-3-2019.

<sup>19</sup> Substituted for "adjudicating officer" by the Depositories (Procedure for Holding Inquiry and Imposing Penalties by Adjudicating Officer) (Amendment) Rules, 2019, w.e.f. 8-3-2019.

<sup>20</sup> Substituted for "section 19H" by the Depositories (Procedure for Holding Inquiry and Imposing Penalties by Adjudicating Officer) (Amendment) Rules, 2019, w.e.f. 8-3-2019.

<sup>21</sup> Substituted for "section 19H" by the Depositories (Procedure for Holding Inquiry and Imposing Penalties by Adjudicating Officer) (Amendment) Rules, 2019, w.e.f. 8-3-2019.

<sup>22</sup> Substituted for "section 19H" by the Depositories (Procedure for Holding Inquiry and Imposing Penalties by Adjudicating Officer) (Amendment) Rules, 2019, w.e.f. 8-3-2019.

<sup>23</sup> Substituted for "adjudicating officer" by the Depositories (Procedure for Holding Inquiry and Imposing Penalties by Adjudicating Officer) (Amendment) Rules, 2019, w.e.f. 8-3-2019.

(4) Every such order shall be dated and signed by the <sup>24</sup>[Board or the adjudicating officer].

<sup>25</sup>[(5) The Board or the adjudicating officer who has passed an order, may rectify any error apparent on the face of record on such order, either on its own motion or where such error is brought to his notice by the affected person within a period of fifteen days from the date of such order.

Explanation: For the purpose of this rule, "error apparent on the face of record" shall mean any typographical errors that creep in inadvertently into the order and includes such other errors that do not require a long drawn out reasoning process to ascertain such a mistake.]

### Copy of the order

6. The <sup>26</sup>[Board or the adjudicating officer] shall send a copy of every order made under rules by it to the person concerned and to the Board.

### Service of notices and orders

7. <sup>27</sup>[(1) A notice or an order issued under these rules shall be served on the person through any of the following modes, namely:—

(a) by delivering or tendering it to that person or his duly authorised agent; or

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<sup>24</sup> Substituted for "adjudicating officer" by the Depositories (Procedure for Holding Inquiry and Imposing Penalties by Adjudicating Officer) (Amendment) Rules, 2019, w.e.f. 8-3-2019.

<sup>25</sup> Inserted by Depositories (Procedure for Holding Inquiry and Imposing Penalties by Adjudicating Officer) (Amendment) Rules, 2019, w.e.f. 8-3-2019.

<sup>26</sup> Substituted for "adjudicating officer" by the Depositories (Procedure for Holding Inquiry and Imposing Penalties by Adjudicating Officer) (Amendment) Rules, 2019, w.e.f. 8-3-2019.

<sup>27</sup> Substituted by the Depositories (Procedure for Holding Inquiry and Imposing Penalties) (Amendment) Rules, 2021, w.e.f. 31-12-2021. Prior to substitution, the provision read as under:

*"A notice or an order issued under these rules shall be served on the person in the following manner, that is to say, —*

*(a) by delivering or tendering it to that person or his duly authorised agent;*

*(b) by sending it to the person by fax or electronic mail or by courier or speed post with acknowledgement due or registered post with acknowledgement due to the address of his place of residence or his last known place of residence or the place where he carried on, or last carried on, business or personally works, or last worked, for gain; or*

*Provided that a notice sent by fax shall bear a note that the same is being sent by fax and in case the document contains annexure, the number of pages being sent shall also be mentioned:*

*Provided further that a notice sent through electronic mail shall be digitally signed by the competent authority and bouncing of the electronic mail shall not constitute valid service.*

*(c) if it cannot be served under clause (a) or clause (b), by affixing it on the outer door or some other conspicuous part of the premises in which that person resides or is known to have last resided, or carried on business or personally works or last worked for gain and that written report thereof should be witnessed*

*(d) by two persons;*

*if it cannot be affixed on the outer door as per clause (c), by publishing the notice in atleast two newspapers, one in a English daily newspaper having nationwide circulation, and another in a newspaper having wide circulation published in the language of the region where that person was last known to have resided or carried on business or personally worked for gain.*

- (b) by sending it to the person by fax or electronic mail or electronic instant messaging services along with electronic mail or by courier or speed post or registered post:

Provided that the courier or speed post or registered post shall be sent to the address of his place of residence or his last known place of residence or the place where he carried on, or last carried on, business or personally works, or last worked, for gain, with acknowledgment due:

Provided further that a notice sent by fax shall bear a note that the same is being sent by fax and in case the document contains annexure, the number of pages being sent shall also be mentioned:

Provided also that a notice sent through electronic mail or electronic instant messaging services along with electronic mail shall be digitally signed by the competent authority and bouncing of the electronic mail shall not constitute valid service.

(2) In case of failure to serve a notice or an order through any one of the modes provided under subrule (1), the notice or order may be affixed on the outer door or some other conspicuous part of the premises in which the person resides or is known to have last resided, or carried on business or personally works, or last worked, for gain and a written report thereof shall be prepared in the presence of two witnesses.

(3) In case of failure to affix the notice or order on the outer door as provided under subrule (2), the notice or order shall be published in at least two newspapers, one of which shall be in an English daily newspaper having nationwide circulation and another shall be in a newspaper having wide circulation published in the language of the region where that person was last known to have resided or carried on business or personally worked for gain.]

**Note:** *These rules were published in the Gazette of India vide Notification: G.S.R. 228(E), dated the 11<sup>th</sup> April, 2005 and subsequently amended vide notification number as under:*

- (1) G.S.R. 644 (E), dated the 19<sup>th</sup> August, 2015*
- (2) G.S.R. 211(E), dated the 03<sup>rd</sup> August 2019*
- (3) G.S.R. 932(E), dated the 31<sup>st</sup> December 2021*

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# SECURITIES CONTRACTS (REGULATION) (PROCEDURE FOR HOLDING INQUIRY AND IMPOSING PENALTIES <sup>1</sup>[\*\*\*]) RULES, 2005

*In exercise of the powers conferred by <sup>2</sup>[clause (hd) and clause (i) of sub-section (2) of section 30] of the Securities Contracts (Regulation) Act, 1956 (42 of 1956), the Central Government hereby makes the following rules for holding inquiry for the purpose of imposing penalty under sections 23A, 23B, 23C, 23D, 23E, 23F, 23G<sup>3</sup>[, 23GA] and 23H of the Act, namely :—*

## Short title and commencement

1. (1) These rules may be called the Securities Contracts (Regulation) (Procedure for Holding Inquiry and Imposing Penalties <sup>4</sup>[\*\*\*]) Rules, 2005.
- (2) They shall come into force on the date of their publication in the Official Gazette.

## Definitions

2. (1) In these rules, unless the context otherwise requires,—
  - (a) "Act" means the Securities Contracts (Regulation) Act, 1956 (42 of 1956);
  - (b) "adjudicating officer" means the officer appointed by the Securities and Exchange Board of India as adjudicating officer under section 23-I of the Act;
  - (c) "inquiry" means the inquiry referred in <sup>5</sup>[sub-section (2) of section 12A or section 23-I of the Act].
- (2) Words and expressions used herein and not defined in these rules but defined in the Securities Contracts (Regulation) Act, 1956 shall have the same meanings respectively assigned to them under that Act.

## Appointment of adjudicating officer for holding inquiry

3. Whenever the Securities and Exchange Board of India is of the opinion that there are grounds for adjudging under sections 23A, 23B, 23C, 23D, 23E, 23F, 23G and 23H of the Act, it may appoint any of its officer not below the rank of Division Chief to be an adjudicating officer for holding an inquiry for the said purpose.

## Holding of inquiry

4. (1) In holding an inquiry for the purpose of adjudging under sections 23A, 23B, 23C, 23D, 23E, 23F, 23G <sup>6</sup>[, 23GA] and 23H whether any person has committed contraventions as specified in any of sections

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<sup>1</sup> Words "by Adjudicating Officer" omitted by the Securities Contracts (Regulation) (Procedure for Holding Inquiry and Imposing Penalties by Adjudicating Officer) (Amendment) Rules, 2019, w.e.f. 8-3-2019.

<sup>2</sup> Substituted for "clause (hd) of sub-section (2) of section 30" by the Securities Contracts (Regulation) (Procedure for Holding Inquiry and Imposing Penalties by Adjudicating Officer) (Amendment) Rules, 2019, w.e.f. 8-3-2019.

<sup>3</sup> Inserted by the Securities Contracts (Regulation) (Procedure for Holding Inquiry and Imposing Penalties by Adjudicating Officer) (Amendment) Rules, 2019, w.e.f. 8-3-2019.

<sup>4</sup> Words "by Adjudicating Officer" omitted by the Securities Contracts (Regulation) (Procedure for Holding Inquiry and Imposing Penalties by Adjudicating Officer) (Amendment) Rules, 2019, w.e.f. 8-3-2019.

<sup>5</sup> Words "Section 23-I" Substituted by Securities Contracts (Regulation) (Procedure for Holding Inquiry and Imposing Penalties by Adjudicating Officer) (Amendment) Rules, 2019, w.e.f. 8-3-2019.

<sup>6</sup> Inserted by the Securities Contracts (Regulation) (Procedure for Holding Inquiry and Imposing Penalties by Adjudicating Officer) (Amendment) Rules, 2019, w.e.f. 8-3-2019.

23A, 23B, 23C, 23D, 23E, 23F, 23G <sup>7</sup>[, 23GA] and 23H, the <sup>8</sup>[*Board or the adjudicating officer*] shall, in the first instance, issue a notice to such person requiring him to show cause within such period as may be specified in the notice (being not less than fourteen days from the date of service thereof) why an inquiry should not be held against him.

(2) Every notice under sub-rule (1) to any such person shall indicate the nature of offence alleged to have been committed by him.

(3) If after considering the cause, if any, shown by such person, the <sup>9</sup>[*Board or the adjudicating officer*] is of the opinion that an inquiry should be held, he shall issue a notice fixing a date for the appearance of that person either personally or through his lawyer or other authorised representative.

(4) On the date fixed, the <sup>10</sup>[*Board or the adjudicating officer*] shall explain to the person proceeded against or his lawyer or authorised representative, the offence, alleged to have been committed by such person indicating the provisions of the Act, rules or regulations in respect of which contravention is alleged to have taken place.

(5) The <sup>11</sup>[*Board or the adjudicating officer*] shall then give an opportunity to such person to produce such documents or evidence as he may consider relevant to the inquiry and if necessary the hearing may be adjourned to a future date and in taking such evidence the <sup>12</sup>[*Board or the adjudicating officer*] shall not be bound to observe the provisions of the Evidence Act, 1872 (11 of 1872) :

**Provided** that the notice referred to in sub-rule (3), and the personal hearing referred to in sub-rules (3), (4) and (5) may, at the request of the person concerned, be waived.

(6) While holding an inquiry under this rule the <sup>13</sup>[*Board or the adjudicating officer*] shall have the power to summon and enforce the attendance of any person acquainted with the facts and circumstances of the case to give evidence or to produce any document which in the opinion of the <sup>14</sup>[*Board or the adjudicating officer*] may be useful for or relevant to the subject matter of the inquiry.

(7) If any person fails, neglects or refuses to appear as required by sub-rule (3) before the <sup>15</sup>[*Board or the adjudicating officer*], the <sup>16</sup>[*Board or the adjudicating officer*] may proceed with the inquiry in the absence of such person after recording the reasons for doing so.

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<sup>7</sup> Inserted by the Securities Contracts (Regulation) (Procedure for Holding Inquiry and Imposing Penalties by Adjudicating Officer) (Amendment) Rules, 2019, w.e.f. 8-3-2019.

<sup>8</sup> Substituted for "adjudicating officer" by the Securities Contracts (Regulation) (Procedure for Holding Inquiry and Imposing Penalties by Adjudicating Officer) (Amendment) Rules, 2019, w.e.f. 8-3-2019.

<sup>9</sup> Substituted for "adjudicating officer" by the Securities Contracts (Regulation) (Procedure for Holding Inquiry and Imposing Penalties by Adjudicating Officer) (Amendment) Rules, 2019, w.e.f. 8-3-2019.

<sup>10</sup> Substituted for "adjudicating officer" by the Securities Contracts (Regulation) (Procedure for Holding Inquiry and Imposing Penalties by Adjudicating Officer) (Amendment) Rules, 2019, w.e.f. 8-3-2019.

<sup>11</sup> Substituted for "adjudicating officer" by the Securities Contracts (Regulation) (Procedure for Holding Inquiry and Imposing Penalties by Adjudicating Officer) (Amendment) Rules, 2019, w.e.f. 8-3-2019.

<sup>12</sup> Substituted for "adjudicating officer" by the Securities Contracts (Regulation) (Procedure for Holding Inquiry and Imposing Penalties by Adjudicating Officer) (Amendment) Rules, 2019, w.e.f. 8-3-2019.

<sup>13</sup> Substituted for "adjudicating officer" by the Securities Contracts (Regulation) (Procedure for Holding Inquiry and Imposing Penalties by Adjudicating Officer) (Amendment) Rules, 2019, w.e.f. 8-3-2019.

<sup>14</sup> Substituted for "adjudicating officer" by the Securities Contracts (Regulation) (Procedure for Holding Inquiry and Imposing Penalties by Adjudicating Officer) (Amendment) Rules, 2019, w.e.f. 8-3-2019.

<sup>15</sup> Substituted for "adjudicating officer" by the Securities Contracts (Regulation) (Procedure for Holding Inquiry and Imposing Penalties by Adjudicating Officer) (Amendment) Rules, 2019, w.e.f. 8-3-2019.

<sup>16</sup> Substituted for "adjudicating officer" by the Securities Contracts (Regulation) (Procedure for Holding Inquiry and Imposing Penalties by Adjudicating Officer) (Amendment) Rules, 2019, w.e.f. 8-3-2019.

## **Order of the <sup>17</sup>[Board or the adjudicating officer]**

5. (1) If, upon consideration of the evidence produced before the <sup>18</sup>[Board or the adjudicating officer], the <sup>19</sup>[Board or the adjudicating officer] is satisfied that the person has become liable to penalty under any of the sections specified in sub-section (1) or <sup>20</sup>[sub-section (2) of section 12A or section 23-I] of the Act, he may, by order in writing, impose such penalty as he thinks fit in accordance with the provisions of the relevant section or sections specified in <sup>21</sup>[sub-section (2) of section 12A or section 23-I] of the Act.

(2) While adjudging the quantum of penalty under <sup>22</sup>[sub-section (2) of section 12A or section 23-I] of the Act, the <sup>23</sup>[Board or the adjudicating officer] shall have due regard to the following factors, namely:—

- (a) the amount of disproportionate gain or unfair advantage, wherever quantifiable, made as a result of the default;
- (b) the amount of loss caused to an investor or group of investors as a result of the default;
- (c) the repetitive nature of the default.

(3) Every order made under sub-rule (1) shall specify the provisions of the Act in respect of which default has taken place and shall contain brief reasons for such decisions.

(4) Every such order shall be dated and signed by the <sup>24</sup>[Board or the adjudicating officer].

<sup>25</sup> [ (5) *The Board or the adjudicating officer who has passed an order, may rectify any error apparent on the face of record on such order, either on its own motion or where such error is brought to his notice by the affected person within a period of fifteen days from the date of such order.*

*Explanation.—For the purpose of this rule, "error apparent on the face of record" shall mean any typographical errors that creep in inadvertently into the order and includes such other errors that do not require a long drawn out reasoning process to ascertain such a mistake.]*

## **Copy of the order**

6. The <sup>26</sup>[Board or the adjudicating officer] shall send a copy of every order made under rules by it to the person concerned and to the Securities and Exchange Board of India.

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<sup>17</sup> Substituted for "adjudicating officer" by the Securities Contracts (Regulation) (Procedure for Holding Inquiry and Imposing Penalties by Adjudicating Officer) (Amendment) Rules, 2019, w.e.f. 8-3-2019.

<sup>18</sup> Substituted for "adjudicating officer" by the Securities Contracts (Regulation) (Procedure for Holding Inquiry and Imposing Penalties by Adjudicating Officer) (Amendment) Rules, 2019, w.e.f. 8-3-2019.

<sup>19</sup> Substituted for "adjudicating officer" by the Securities Contracts (Regulation) (Procedure for Holding Inquiry and Imposing Penalties by Adjudicating Officer) (Amendment) Rules, 2019, w.e.f. 8-3-2019.

<sup>20</sup> Substituted for "section 23-I" by the Securities Contracts (Regulation) (Procedure for Holding Inquiry and Imposing Penalties by Adjudicating Officer) (Amendment) Rules, 2019, w.e.f. 8-3-2019.

<sup>21</sup> Substituted for "section 23-I" by the Securities Contracts (Regulation) (Procedure for Holding Inquiry and Imposing Penalties by Adjudicating Officer) (Amendment) Rules, 2019, w.e.f. 8-3-2019.

<sup>22</sup> Substituted for "section 23-I" by the Securities Contracts (Regulation) (Procedure for Holding Inquiry and Imposing Penalties by Adjudicating Officer) (Amendment) Rules, 2019, w.e.f. 8-3-2019.

<sup>23</sup> Substituted for "adjudicating officer" by the Securities Contracts (Regulation) (Procedure for Holding Inquiry and Imposing Penalties by Adjudicating Officer) (Amendment) Rules, 2019, w.e.f. 8-3-2019.

<sup>24</sup> Substituted for "adjudicating officer" by the Securities Contracts (Regulation) (Procedure for Holding Inquiry and Imposing Penalties by Adjudicating Officer) (Amendment) Rules, 2019, w.e.f. 8-3-2019.

<sup>25</sup> Inserted by the Securities Contracts (Regulation) (Procedure for Holding Inquiry and Imposing Penalties by Adjudicating Officer) (Amendment) Rules, 2019, w.e.f. 8-3-2019.

<sup>26</sup> Substituted for "adjudicating officer" by the Securities Contracts (Regulation) (Procedure for Holding Inquiry and Imposing Penalties by Adjudicating Officer) (Amendment) Rules, 2019, w.e.f. 8-3-2019.

## Service of notices and orders

7.<sup>27</sup> [(1) A notice or an order issued under these rules shall be served on the person through any of the following modes, namely:—

- (a) by delivering or tendering it to that person or his duly authorised agent; or
- (b) by sending it to the person by fax or electronic mail or electronic instant messaging services along with electronic mail or by courier or speed post or registered post:

Provided that the courier or speed post or registered post shall be sent to the address of his place of residence or his last known place of residence or the place where he carried on, or last carried on, business or personally works, or last worked, for gain, with acknowledgment due:

Provided further that a notice sent by fax shall bear a note that the same is being sent by fax and in case the document contains annexure, the number of pages being sent shall also be mentioned:

Provided also that a notice sent through electronic mail or electronic instant messaging services along with electronic mail shall be digitally signed by the competent authority and bouncing of the electronic mail shall not constitute valid service.

(2) In case of failure to serve a notice or an order through any one of the modes provided under sub-rule (1), the notice or order may be affixed on the outer door or some other conspicuous part of the premises in which the person resides or is known to have last resided, or carried on business or personally works, or last worked, for gain and a written report thereof shall be prepared in the presence of two witnesses.

(3) In case of failure to affix the notice or order on the outer door as provided under sub-rule (2), the notice or order shall be published in at least two newspapers, one of which shall be in an English daily newspaper having nationwide circulation and another shall be in a newspaper having wide circulation published in the language of the region where that person was last known to have resided or carried on business or personally worked for gain.]

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<sup>27</sup> Substituted by the Securities Contracts (Regulation) (Procedure for Holding Inquiry and Imposing Penalties) (Amendment) Rules, 2021, w.e.f. 31-12-2021. Prior to substitution, the provision read as under:

*“A notice or an order issued under these rules shall be served on the person in the following manner, that is to say,—*

- (a) by delivering or tendering it to that person or his duly authorised agent;*
- (b) by sending it to the person by fax or electronic mail or by courier or speed post with acknowledgement due or registered post with acknowledgement due to the address of his place of residence or his last known place of residence or the place where he carried on, or last carried on, business or personally works, or last worked, for gain; or:*

*Provided that a notice sent by fax shall bear a note that the same is being sent by fax and in case the document contains annexure, the number of pages being sent shall also be mentioned:*

*Provided further that a notice sent through electronic mail shall be digitally signed by the competent authority and bouncing of the electronic mail shall not constitute valid service.*

- (c) if it cannot be served under clause (a) or clause (b), by affixing it on the outer door or some other conspicuous part of the premises in which that person resides or is known to have last resided, or carried on business or personally works or last worked for gain and that written report thereof should be witnessed by two persons;*
- (d) if it cannot be affixed on the outer door as per clause (c), by publishing the notice in atleast two newspapers, one in a English daily newspaper having nationwide circulation, and another in a newspaper having wide circulation published in the language of the region where that person was last known to have resided or carried on business or personally worked for gain.”*



**Note :** *The principal rules were published in the Gazette of India, Extraordinary, Part II, Section 3 vide notification number G.S.R. 227(E), dated the 11<sup>th</sup> April, 2005 and subsequently amended vide notification numbers as under:*

- (1) G.S.R. 645(E), dated the 19<sup>th</sup> August, 2015;*
- (2) G.S.R. 212(E), dated the 8<sup>th</sup> March, 2019;*
- (3) G.S.R. 931(E), dated the 31<sup>st</sup> December, 2021.*

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**SECURITIES TRANSACTION TAX RULES, 2004**  
**NOTIFICATION NO. SO 1059(E), DATED 28-9-2004**

*In exercise of the powers conferred by sub-section (1) read with sub-section (2) of section 114 of the Finance (No. 2) Act, 2004 (23 of 2004), the Central Government hereby makes the following rules for carrying out the provisions of Chapter VII of the said Act relating to securities transaction tax, namely :—*

**Short title and commencement.**

1. (1) These rules may be called the Securities Transaction Tax Rules, 2004.
- (2) They shall come into force on the 1st day of October, 2004.

**Definitions.**

2. (1) In these rules, unless the context otherwise requires,—
  - (a) "Act" means the Finance (No. 2) Act, 2004 (23 of 2004);
  - (b) "authorised bank" means any bank as may be appointed by the Reserve Bank of India as its agent under the provisions of sub-section (1) of section 45 of the Reserve Bank of India Act, 1934 (2 of 1934);
  - (c) "Form" means a Form set out in the Appendix to these rules.
- (2) Words and expressions used and not defined in these rules but defined in the Act, or the Securities Contracts (Regulation) Act, 1956, or the Income-tax Act, 1961, shall have the meanings respectively assigned to them in those Acts.

**Value of taxable securities transaction.**

3. For the purposes of clause (c) of section 99 of the Act, the value of a taxable securities transaction, being a purchase or sale of an equity share in a company or a unit of an equity oriented fund, entered into in a recognised stock exchange, shall be determined in the following manner, namely :—
  - (a) where the equity share or unit is purchased or sold by a person on a trading day in the netted settlement mode,—
    - (i) the quantity of shares or units purchased or sold in each trade in that equity share or unit executed by the person on that day, shall be multiplied by the price at which the trade is executed, to determine the trade value of each such trade;
    - (ii) the aggregate trade value of all trades in the equity share or unit by the person on that day shall be arrived at by totalling the trade values determined under sub-clause (i);
    - (iii) the aggregate trade value arrived at under sub-clause (ii), shall be divided by the total quantity of the equity share or unit traded by the person on that day, to determine the volume weighted average price of that equity share or unit for that person for that day;

- (iv) such volume weighted average price (rounded off to the nearest paisa) shall be taken to be the value of the taxable securities transaction relating to the equity share or unit.

*Explanation* - For the purposes of this clause, the determination of the value of taxable securities transaction in a case where the equity share or unit is purchased or sold through a member of the stock exchange, shall be made with reference to the trades executed in the equity share or unit under a particular client Code through that member;

- (b) where the equity share or unit is purchased or sold by a person in the trade-for-trade settlement mode, the value of the taxable securities transaction shall be the price at which the equity share or unit is purchased or sold;
- (c) where the equity share or unit is purchased in the auction settlement mode, the value of the taxable securities transaction shall be the volume weighted average price of the equity share or unit, determined in the manner specified in clause (a), in respect of all trades in that equity share or unit carried out in the auction session;
- (d) where the equity share or unit is sold in the auction settlement mode, the value of the taxable securities transaction shall be the price at which the equity share or unit is sold.

*Explanation* - For the purposes of this rule—

- (i) "netted settlement mode" means a mode of settlement of transactions in a recognised stock exchange where the quantity of an equity share or unit purchased by a person on a trading day is set off against the quantity of that equity share or unit sold by him on that day and actual delivery is required to be taken or given by him as the case may be, only in respect of the net quantity purchased or sold as has not been so set off;
- (ii) "trade-for-trade settlement mode" means a mode of settlement of transactions in a recognised stock exchange where each trade is compulsorily required to be settled by actual delivery;
- (iii) "auction settlement mode" means a mode of settlement, in a stock exchange, of transactions carried out in the auction session, being a trading session in which the stock exchange makes purchases of equity shares or units through an auction process initiated by it, so as to settle transactions where there has been a failure to deliver such equity shares or units which were required to be delivered.

#### **Rounding off value of taxable securities transaction, securities transaction tax, etc.**

4. The value of taxable securities transaction and the amount of securities transaction tax, interest and penalty payable, and the amount of refund due, under the provisions of Chapter VII of the Act shall be rounded off to the nearest rupee and, for this purpose, where such amount contains a part of a rupee consisting of paise then, if such part is fifty paise or more, it shall be increased to one rupee and if such part is less than fifty paise it shall be ignored.

#### **Person responsible for collection and payment of securities transaction tax in case of a Mutual Fund.**

5. In the case of a Mutual Fund, the person responsible for collection and payment of securities transaction tax in accordance with sub-sections (2), (3) and (4) of section 100 of the Act, shall be the trustee of the Fund, or such other person managing the affairs of the Mutual Fund as may be duly authorised by the trustee in this behalf.

**Payment of Securities Transaction Tax.**

6. Every recognised stock exchange, or, as the case may be, the trustee of every Mutual Fund or such other person managing the affairs of the mutual fund as may be duly authorised by the trustee in this behalf, who is required to collect and pay securities transaction tax under section 100, shall pay the amount of such tax to the credit of the Central Government by remitting it into any branch of the Reserve Bank of India or of the State Bank of India or of any authorised bank accompanied by a securities transaction tax challan.

**Return of taxable securities transactions.**

7. (1) The return of taxable securities transactions required to be furnished under sub-section (1) of section 101 of the Act shall,—

(a) in the case of a recognised stock exchange, be in Form No. 1 and be verified in the manner indicated therein;

(b) in the case of a Mutual Fund, be in Form No. 2 and be verified in the manner indicated therein.

(2) The particulars required to be furnished in the schedules to Form No. 1 and Form No. 2 referred to in sub-rule (1) shall be furnished on a computer media, in accordance with the following,—

(a) the computer media conforms to the following specifications :—

(i) CD ROM of 650 MB capacity or higher capacity; or

(ii) 4mm 2GB/4GB (90M/120M) DAT Cartridge, or

(iii) Digital Video Disc;

(b) if the data relating to the schedules is copied using data compression or backup software utility, the corresponding software utility or procedure for its decompression or restoration shall also be furnished;

(c) the return shall be accompanied by a certificate regarding clean and virus free data.

(3) In the case of a Mutual Fund, the return referred to in sub-rule (1) shall be furnished by the trustee of the Fund, or such other person managing the affairs of the Mutual Fund as may be duly authorised by the trustee in this behalf.

(4) The return of taxable securities transaction entered into during a financial year shall be furnished on or before the 30th June immediately following that financial year.

**Return by whom to be signed.**

8. The return under sub-section (1) of section 101 of the Act shall be signed and verified—

(a) in the case of a recognised stock exchange—

- (i) being a company, by the Managing Director or a Director thereof;
- (ii) in any other case, by the principal officer thereof;
- (b ) in the case of a Mutual Fund, by the trustee or such other person managing the affairs of the Mutual Fund as may be duly authorised by the trustee in this behalf.

**Time limit to be specified in the notice calling for return of taxable securities transaction.**

**9.** Where an assessee fails to furnish the return under sub-section (1) of section 101 of the Act within the time specified in sub-rule (4) of rule 7, the Assessing Officer may issue a notice to such person requiring him to furnish, within thirty days from the date of service of the notice, a return in the Form prescribed in rule 7 as applicable to him and verified in the manner indicated therein.

**Notice of demand.**

**10.** Where any tax, interest or penalty is payable in consequence of any order passed under the provisions of Chapter VII of the Act, the Assessing Officer shall serve upon the assessee a notice of demand in Form No. 3 specifying the sum so payable.

**Prescribed time for refund of tax to the person from whom such amount was collected.**

**11.** Every assessee, in case any amount is refunded to it on assessment under sub-section (2) of section 102 of the Act, shall, within thirty days from the date of receipt of such amount, refund the same to the concerned person from whom it was collected

**Form of appeal to Commissioner of Income-tax (Appeals).**

**12.** (1) An appeal under sub-section (1) of section 110 to the Commissioner (Appeals) shall be made in Form No. 4.

(2) The form of appeal prescribed by sub-rule (1), the grounds of appeal and the form of verification appended thereto relating to an assessee shall be signed and verified by the person who is authorised to sign the return of taxable securities transactions under rule 8, as applicable to the assessee.

**Form of appeal to Appellate Tribunal.**

**13.** An appeal under sub-section (1) or sub-section (2) of section 111 of the Act to the Appellate Tribunal shall be made in Form No. 5, and where the appeal is made by the assessee, the form of appeal, the grounds of appeal and the form of verification appended thereto shall be signed by the person specified in rule 8.

## **DEPOSITORIES (APPEAL TO SECURITIES APPELLATE TRIBUNAL) RULES, 2000**

In exercise of the powers conferred by section 24 read with section 23A, of the Depositories Act, 1996 (22 of 1996), the Central Government hereby makes the following rules, namely:—

### **Short title and commencement**

**1.** (1) These rules may be called the Depositories (Appeal to Securities Appellate Tribunal) Rules, 2000.

(2) They shall come into force on the date of their publication in the Official Gazette.

### **Definitions**

**2.** (1) In these rules, unless the context otherwise requires,—

- (a) “Act” means the Depositories Act, 1996 (22 of 1996);
- (b) “appeal” means an appeal preferred under section 23A of the Act;
- (c) “Appellate Tribunal” means the Securities Appellate Tribunal established under section 15K of the Securities and Exchange Board of India Act, 1992 (15 of 1992);
- (d) “form” means the form appended to these rules;

<sup>1</sup>[(da) ‘Member’ means the Member of the Securities Appellate Tribunal appointed under section 15L of the Securities and Exchange Board of India Act, 1992 (15 of 1992).]

- (e) “party” means a person who prefers an appeal before the Appellate Tribunal and includes respondent;
- (f) “Presiding Officer” means the Presiding Officer of the Securities Appellate Tribunal appointed under section 15L of the Securities and Exchange Board of India Act, 1992 (15 of 1992);
- (g) “rules” means the rules made under the Act;
- <sup>2</sup>[(h) “Registrar” means the Registrar of the Appellate Tribunal and includes an officer of such Appellate Tribunal who is authorised by the Presiding Officer to function as Registrar;]
- (i) “registry” means the registry of the Appellate Tribunal.

(2) Words and expressions used and not defined in these rules but defined in the Depositories Act, 1996 shall have the meanings respectively assigned to them in that Act.

### **Limitation for filing an appeal**

**3.** An appeal may be preferred by the aggrieved person within a period of forty-five days from the date on which a copy of the order, made by the Board under the Act or the regulations made thereunder, is received by the person :

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

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<sup>1</sup> Inserted by the Depositories (Appeal to Securities Appellate Tribunal) (Amendment) Rules, 2005, w.e.f. 31.1.2005.

<sup>2</sup> Substituted by the Depositories (Appeal to Securities Appellate Tribunal) (Amendment) Rules, 2000, w.e.f. 27.7.2001.

### **Form and procedure of appeal**

4. (1) A memorandum of appeal shall be presented in the Form by any aggrieved person in the registry of the Appellate Tribunal within whose jurisdiction his case falls or shall be sent by registered post addressed to the Registrar.

(2) A memorandum of appeal sent by post shall be deemed to have been presented in the registry on the day it was received in the registry.

### **Sittings of Appellate Tribunal**

5. <sup>1</sup>[1] The Appellate Tribunal shall hold its sitting either at a place where its office is situated or at such other place falling within its jurisdiction, as it may deem fit by the Appellate Tribunal.

<sup>2</sup>[(2) In the temporary absence of the Presiding Officer, Government may authorise one of the two other members to preside over the sitting of the Tribunal either at a place where its office is situated or at such other place falling within its jurisdiction as it may deem fit by the Appellate Tribunal.]

### **Language of Appellate Tribunal**

6. (1) The proceedings of the Appellate Tribunal shall be conducted in English or Hindi.

(2) No appeal, application, representation, document or other matters contained in any language other than English or Hindi, shall be accepted by Appellate Tribunal, unless the same is accompanied by a true copy of translation thereof in English or Hindi.

### **Appeal to be in writing**

7. (1) Every appeal, application, reply, representation or any document filed before the Appellate Tribunal shall be typewritten, cyclostyled or printed neatly and legibly on one side of the good quality paper of foolscap size in double space and separate sheets shall be stitched together and every page shall be consecutively numbered and filed in the manner provided in sub-rule (2).

(2) The appeal under sub-rule (1) shall be presented in <sup>3</sup>[five] sets in a paper book along with an empty file size envelope bearing full address of the respondent and in case the respondents are more than one, then sufficient number of extra paper books together with empty file size envelope bearing full addresses of each respondent shall be furnished by the appellant.

### **Presentation and scrutiny of memorandum of appeal**

8. (1) The Registrar shall endorse on every appeal the date on which it is presented under rule 4 or deemed to have been presented under that rule and shall sign endorsement.

(2) If, on scrutiny, the appeal is found to be in order, it shall be duly registered and given a serial number.

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<sup>1</sup> Rule 5 numbered as sub-rule (1) by the Depositories (Appeal to Securities Appellate Tribunal) (Amendment) Rules, 2005, w.e.f. 31.1.2005.

<sup>2</sup> Inserted by the Depositories ( Appeal to Securities Appellate Tribunal) ( Amendment) Rules, 2005, w.e.f. 31.1.2005

<sup>3</sup> Substituted for “3” by the Depositories (Appeal to Securities Appellate Tribunal) (Amendment) Rules, 2005, w.e.f. 31.1.2005.

(3) If an appeal on scrutiny is found to be defective and the defect noticed is formal in nature, the Registrar may allow the appellant to rectify the same in his presence and if the said defect is not formal in nature, the Registrar may allow the appellant such time to rectify the defect as he may deem fit. If the appeal has been sent by post and found to be defective, the Registrar may communicate the defects to the appellant and allow the appellant such time to rectify the defect as he may deem fit.

(4) If the appellant fails to rectify the defect within the time allowed in sub-rule (3), the Registrar may by order and for reasons to be recorded in writing, decline to register such memorandum of appeal and communicate the order to the appellant within seven days thereof.

<sup>1</sup>[(5) An appeal against the order of the Registrar under sub-rule (4) shall be made within 15 days of receiving of such order to the Presiding Officer or in his temporary absence, to the Member authorized under sub-rule (2) of rule 5, whose decision thereon shall be final.]

### **Payment of Fees**

9. <sup>2</sup>[(1) Every memorandum of appeal shall be accompanied with a fee as provided in sub-rule (2) and such fee may be remitted in the form of crossed demand draft drawn on any nationalized bank in favour of “The Registrar, Securities Appellate Tribunal” payable at the station where the registry is located.

(2) The amount of fee payable in respect of appeal against adjudication orders made under the Act shall be as follows:

**TABLE**

Serial No.	Amount of Penalty Imposed	Amount of fees payable
(1)	(2)	(3)
(i)	Less than rupees ten thousand	Rs. 500
(ii)	Rupees ten thousand or more but less than one lakh	Rs. 1200
(iii)	Rupees one lakh or more	Rs. 1200 plus Rs. 500 for every additional one lakh of penalty or fraction thereof subject to a maximum of Rs. 1,50,000.]

<sup>1</sup> Substituted by the Depositories (Appeal to Securities Appellate Tribunal) (Amendment) Rules, 2005, w.e.f. 31.1.2005. Prior to its substitution, sub-rule (5) read as under:-

“An appeal against the order of the Registrar under sub-rule (4) shall be made within fifteen days of receiving of such order to the Presiding Officer concerned in his chamber whose decision thereon shall be final.”

<sup>2</sup> Substituted by the Depositories (Appeal to Securities Appellate Tribunal) (Amendment) Rules, 2005, w.e.f. 31.1.2005. Prior to its substitution, sub-rule (1) and (2) read as under:-

(1) Every appeal shall be accompanied by a fees of rupees five thousand only.

(2) The amount of fees shall be remitted in the form of crossed demand draft drawn on a nationalized bank in favour of “the Registrar, Securities Appellate Tribunal” payable at the station where the registry is located.”



### **Contents of memorandum of appeal**

**10.** (1) Every memorandum of appeal filed under rule 4 shall set forth concisely under distinct heads, the grounds of such appeal without any argument or narrative, and such ground shall be numbered consecutively and shall be in the manner provided in sub-rule (1) of rule 7.

(2) It shall not be necessary to present separate memorandum of appeal to seek interim order or direction if in the memorandum of appeal, the same is prayed for.

### **Documents to accompany memorandum of appeal**

**11.** <sup>1</sup>[(1) Every memorandum of appeal shall be in five copies and shall be accompanied with copies of the order, at least one of which shall be a certified copy, against which the appeal is filed.]

(2) Where a party is represented by authorised representative, a copy of the authorisation to act as the authorised representative and the written consent thereto by such authorised representative, shall be appended to the appeal.

### **Plural remedies**

**12.** A memorandum of appeal shall not seek relief or reliefs therein against more than one order unless the reliefs prayed for are consequential.

### **Notice of appeal to the respondent**

**13.** Copy of the memorandum of appeal and paper book shall be served by the Registrar on the respondent as soon as they are registered in the registry, by hand delivery, or by Registered Post or Speed Post.

### **Filing of reply to the appeal and other documents by the respondent**

**14.** (1) The respondent may file <sup>2</sup>[five] complete sets containing the reply to the appeal along with documents in a paper book form with the registry within one month of the service of the notice on him of the filing of the memorandum of appeal.

(2) Every reply, application or written representation filed before the Appellate Tribunal shall be verified in the manner provided for, in the Form.

(3) A copy of every application, reply, document or written material filed by the respondent before the Appellate Tribunal shall be forthwith served on the appellant by the respondent.

(4) The Appellate Tribunal may, in its discretion, on application by the respondent allow the filing of reply referred to in sub-rule (1) after the expiry of the period referred to therein.

### **Date of hearing to be notified**

**15.** The Appellate Tribunal shall notify the parties the date of hearing of the appeal in such manner as the Presiding Officer may by general or special order direct.

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<sup>1</sup> Substituted by the Depositories (Appeal to Securities Appellate Tribunal) (Amendment) Rules, 2005, w.e.f. 31.1.2005. Prior to its substitution, sub-rule (1) read as under:-

“Every memorandum of appeal shall be in triplicate and shall be accompanied with copies of the order, at least one of which shall be certified copy, against which the appeal is filed.”

<sup>2</sup> Substituted for “three” by the Depositories (Appeal to Securities Appellate Tribunal) (Amendment) Rules, 2005, w.e.f. 31.1.2005.

## **Hearing of appeal**

**16.** (1) On the day fixed or on any other day to which the hearing may be adjourned, the appellant shall be heard in support of the appeal. The Securities Appellate Tribunal shall, then, if necessary, hear the Board or its authorised representative against the appeal, and in such case the appellant shall be entitled to reply. During the course of the hearing of appeal the written arguments could be supplemented by time-bound oral arguments.

<sup>1</sup>[Provided that in case of temporary absence of the Presiding Officer or of the Member authorised by the Government under sub-rule (2) of rule 5, the Presiding Officer can authorise the other Member present on that day to hear the Board or authorised representative against the appeal.]

(2) In case the appellant does not appear in person or through an authorised representative when the appeal is called for hearing, the Securities Appellate Tribunal may dispose of the appeal on the merits:

Provided that where an appeal has been disposed of as provided above and the appellant appears afterwards and satisfies the Securities Appellate Tribunal that there was sufficient cause for his not appearance, when the appeal was called for hearing, the Securities Appellate Tribunal shall make an order setting aside the ex parte order and restore the appeal.

## **<sup>2</sup>[Dress regulations for the Presiding Officer, Members and for the representative of the parties]**

**17.** (1) The dress of the Presiding Officer shall be white or striped or black pant with black coat over white shirt and band or buttoned up black coat and band. The dress for the two other Members shall be white or striped or black pant with black coat over white shirt and black tie or buttoned up black coat. In the case of a female Presiding Officer or a Member, the dress shall be black coat over a white saree.

(2) Every authorized representative, other than a relative of regular employee of the party shall appear before the Appellate Tribunal in his professional dress if any, and if there is no such dress a male, in a suit or buttoned up coat over a pant or national dress that is a long buttoned up coat on dhoti or churidar pyjama, and a female, in a coat over a white or any other sober coloured saree or in any other sober dress.

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<sup>1</sup> Inserted by the Depositories (Appeal to Securities Appellate Tribunal) (Amendment) Rules, 2005, w.e.f. 31.1.2005

<sup>2</sup> Substituted by the Depositories (Appeal to Securities Appellate Tribunal) (Amendment) Rules, 2005, w.e.f. 31.1.2005. Prior to its substitution, rule 17 read as under:-

“Dress regulations for the Presiding Officer and for the representatives of the parties-

- (1) The dress for the Presiding Officer shall be white or striped or black pant with black coat over white shirt and black tie or a buttoned-up black coat. In the case of female Presiding Officer, the dress shall be black coat over the white saree.
- (2) Every authorised representative, other than a relative or regular employee of the party shall appear before the Appellate Tribunal in his professional dress if any, and if there is no such dress, a male, in a suit or buttoned-up coat over a pant or national dress that is a long buttoned –up coat on dhoti or churidar pyjama, and a female, in a coat over white or any other sober coloured saree or in any other sober dress.
- (3) All other persons appearing before the Appellate Tribunal shall be properly dressed.”

(3) All other persons appearing before the Appellate Tribunal shall be properly dressed.]

<sup>1</sup>[**Order to be signed and dated**

**18.** (1) Every order of the Appellate Tribunal shall be signed and dated by the Presiding Officer and the two other Members. The Presiding Officer will have powers to pass such interim orders or injunctions, subject to reasons to be recorded in writing, which it considers necessary in the interest of justice.

(2) Orders shall be pronounced in the sitting of the Appellate Tribunal by the Presiding Officer or in case of the temporary absence of the Presiding Officer, by the Member authorized under sub-rule (2) of rule 5.]

**Publication of orders**

**19.** The orders of the Appellate Tribunal, as are deemed fit for publication in any authoritative report or the press may be released for such publication on such terms and conditions as the Presiding Officer may lay down.

**Communication of orders**

**20.** A certified copy of every order passed by the Appellate Tribunal shall be communicated to the Board, the Adjudicating Officer and to the parties, as the case may be.

**Orders and directions in certain cases**

**21.** The Appellate Tribunal may make such orders or give such directions as may be necessary or expedient to give effect to its orders or to prevent abuse of its process or to secure the ends of justice.

**Fee for inspection of records and obtaining copies thereof**

**22.** (1) A fee of rupees twenty, for every hour or part thereof of inspection subject to a minimum of rupees one hundred shall be charged for inspecting the records of a pending appeal by a party thereto.

(2) A fee of rupees five for a folio or part thereof not involving typing and a fee of rupees ten for a folio or part thereof involving typing of statement and figures shall be charged for providing copies of the records of an appeal to a party thereto.

**Working hours of the Appellate Tribunal**

**23.** (1) The office of the Appellate Tribunal shall observe such public and other holidays as observed by the offices of the Central Government in the locality where the office of the Appellate Tribunal is situated.

(2) The Appellate Tribunal shall, subject to any other order made by the Presiding Officer, remain open on working days from 10 AM to 6.00 PM. But no work, unless of an urgent nature, shall be admitted after 4.30 PM on any working day.

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<sup>1</sup> Substituted by the Depositories (Appeal to Securities Appellate Tribunal) (Amendment) Rules, 2005, w.e.f. 31.1.2005. Prior to its substitution, rule 18 read as under:-

“Orders to be signed and dated-(1) Every order of the Appellate Tribunal shall be signed and dated by the Presiding Officer. The Presiding Officer will have powers to pass interim orders or injunctions, subject to reasons to be recorded in writing, which it considers necessary in the interest of justice.

(2) The order shall be pronounced in the sitting of the Appellate Tribunal.”

(3) The sitting hours of the Appellate Tribunal shall ordinarily be from 10.30 AM to 1.00 PM and 2.00 PM to 5.00 PM, subject to any order made by the Presiding Officer.

### **Holiday**

**24.** Where the last day for doing any act falls on a day on which the office of the Appellate Tribunal is closed and by reason thereof the act cannot be done on that day, it may be done on the next day on which that office opens.

### **Functions of the Registrar**

**25.** <sup>1</sup>[(1) The Registrar shall discharge his functions under the general superintendence of the Presiding Officer or in the temporary absence of the Presiding Officer, the Member authorized under sub-rule (2) of rule 5. He shall discharge such other functions as are assigned to him under these rules by the Presiding Officer or in the temporary absence of the Presiding Officer, by the Member authorized under sub-rule (2) of rule 5, by a separate order in writing];

(2) He shall have the custody of the records of the Appellate Tribunal.

(3) The official seal of the Appellate Tribunal shall be kept in the custody of the Registrar.

<sup>2</sup>[(4) Subject to any general or special direction by the Presiding Office, or in the temporary absence of the Presiding Officer, the Member authorized under sub-rule (2) of rule 5, the official seal of the Appellate Tribunal shall not be affixed to any order, summons or other process save under the authority in writing from the Registrar.]

(5) The official seal of the Appellate Tribunal shall not be affixed to any certified copy issued by the Appellate Tribunal, save under the authority in writing of the Registrar.

<sup>3</sup>[**Additional functions and duties of Registrar**

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<sup>1</sup> Substituted by the Depositories (Appeal to Securities Appellate Tribunal) (Amendment) Rules, 2005 w.e.f. 31.1.2005. Prior to its substitution, sub-rule (1) read as under:

“The Registrar shall discharge his functions under general superintendence of the Presiding Officer. He shall discharge such other functions as are assigned to him under these rules or by the Presiding Officer by a separate order in writing.”

<sup>2</sup> Substituted by the Depositories (Appeal to Securities Appellate Tribunal) (Amendment) Rules, 2005 w.e.f. 31.1.2005. Prior to its substitution, sub-rule (4) read as under:

“Subject to any general or special direction by the Presiding Officer, the official seal of the Appellate Tribunal shall not be affixed to any order, summons or other process save under the authority in writing from the Registrar.”

<sup>3</sup> Substituted by the Depositories (Appeal to Securities Appellate Tribunal) (Amendment) Rules, 2005 w.e.f. 31.1.2005. Prior to its substitution, rule 26 read as under:

“Additional functions and duties of Registrar- In addition to the functions and duties assigned in the rules, the Registrar shall have the following functions and duties subject to any general or special orders of the Presiding Officer namely:-

- (1) to receive all appeals, replies and other documents;
- (2) to decide all questions arising out of the scrutiny of the appeals before they are registered;
- (3) to require any appeal presented to the Appellate Tribunal to be amended in accordance with the rules;
- (4) subject to the directions of the Presiding Officer to fix date of hearing of the appeals or other proceedings and issue notice thereof;
- (5) direct any formal amendment of records;

**26.** In addition to the functions and duties assigned in the rules, the Registrar shall have the following functions and duties subject to any general or special order of the Presiding Officer or in his temporary absence, the Member authorized under sub-rule (2) of rule 5, namely :—

- (i) to receive all appeals, replies and other documents;
- (ii) to decide all questions arising out of the scrutiny of the appeal before they are registered;
- (iii) to require any appeal presented to the Appellate Tribunal to be amended in accordance with the rule;
- (iv) subject to the directions of the Presiding Officer, or in his temporary absence, the Member authorized under sub-rule (2) of rule 5, to fix a date of hearing of the appeals or other proceedings and issue notices thereof;
- (v) to direct any formal amendment of records;
- (vi) to order grant of copies of documents to parties to proceedings;
- (vii) to grant leave to inspect the record of the Appellate Tribunal;
- (viii) to dispose of all matters relating to the service of notices or other processes, application for the issue of fresh notice or for extending the time for or ordering a particular method of service on a respondent including a substituted service by publication of the notice by way of advertisement in the newspapers; and
- (ix) for requisition of records from the custody of any court or other authority.]

#### **Seal and emblem**

**27.** The official seal and emblem of the Appellate Tribunal shall be such as the Central Government may specify.

#### **Repeal and saving**

**28. (1)** The Depositories (Appeal to the Central Government) Rules, 1998 are hereby repealed.

(2) Notwithstanding such repeal anything done or any action taken under the said rules, shall be deemed to have been done or taken under the corresponding provisions of these rules.

### **FORM**

(see Rule 4)

#### **Memorandum of appeal**

For use in Appellate Tribunal's Office

- 
- (6) to order grant of copies of documents to parties to proceedings;
  - (7) to grant leave to inspect the record of the Appellate Tribunal;
  - (8) dispose of all matters relating to the service of notices or other processes, application for the issue of fresh notice or for extending the time for or ordering a particular method of service on a respondent including a substituted service by publication of the notice by way of advertisement in the newspapers;
  - (9) to requisition records from the custody of any court or other authority.”

Date of presentation in the registry

Date of receipt by post

Registration number

Signature

Registrar

Before the Securities Appellate Tribunal

In the matter of the Depositories Act, 1996 (22 of 1996)

and

In the matter of appeal against the order made on  
..... by.....

A.B. Appellant

C.D. and other - Respondent(s)

Details of appeal:

**1. Particulars of the appellant:**

- (i) Name of the appellant
- (ii) Address of registered office of the appellant
- (iii) Address for service of all notices
- (iv) Telephone/Fax Number and e-mail address, if any

**2. Particulars of the respondent(s):**

- (i) Name of the respondent(s)
- (ii) Office address of the respondent(s)
- (iii) Address of respondent(s) for service of all notices
- (iv) Telephone/Fax Number and e-mail address, if any

**Jurisdiction of the Appellate Tribunal**

**3.** The appellant declares that the matter of appeal falls within the jurisdiction of the Appellate Tribunal.

**Limitation**

**4.** The appellant further declares that the appeal is within the limitation as prescribed in section 23 D of the Depositories Act, 1996 (22 of 1996).

**5.** Facts of the case and the details of the order against which appeal is filed:

The facts of the case are given below:

(Give here a concise statement of facts and grounds of appeal against the specified order in a chronological order, each paragraph containing as neatly as possible as separate issue, fact or otherwise).

**Relief(s) sought**

**6.** In view of the facts mentioned in paragraph 5 above, the appellant prays for the following relief(s) [Specify below the relief(s) sought explained the grounds for relief(s) and the legal provisions, if any, relied upon].

**Interim order, if prayed for**

**7.** Pending final decision of the appeal the appellant seeks issue of the following interim order:

(Give here the nature of the interim order prayed for with reasons).

**Matter not pending with any other court, etc.**

**8.** The appellant further declares that the matter regarding with this appeal has been made is not pending before any court of law or any other authority or any other Tribunal.

**Particulars in respect of the fee paid in terms of rule 9 of these rules**

**9.** (1) Amount of fees

(2) Name of the Bank on which Demand Draft is drawn

(3) Demand draft number

**Details of Index**

**10.** An index containing the details of the documents to be relied upon is enclosed.

**11. List of enclosures—**

(Signature of the appellant/Authorised Representative)

**Verification**

I,

.....  
.....son/daughter/wife of

(Name in block letters)

Shri.....being the appellant/Authorised Representative of

(Name of the appellant)

..... do hereby verify that the contents of paras 1 to 11 are true to my personal knowledge and belief and that I have not suppressed any material facts.

Signature of the appellant/Authorised Representative

Place:

Date:

To

The Registrar

.....  
.....

**SECURITIES APPELLATE TRIBUNAL**  
**SECURITIES APPELLATE TRIBUNAL (PROCEDURE) RULES, 2000**

*In exercise of the powers conferred by section 29 read with sections 15T and 15U of the Securities and Exchange Board of India Act, 1992 (15 of 1992), the Central Government hereby makes the following Rules, namely :—*

**Short title and commencement**

1. (1) These rules may be called Securities Appellate Tribunal (Procedure) Rules, 2000.
- (2) They shall come into force on the date of their publication in the Official Gazette.

**Definitions**

2. (1) In these rules, unless the context otherwise requires,—
  - (a) "Act" means the Securities and Exchange Board of India Act, 1992 (15 of 1992);
  - (b) "adjudicating officer" means an officer appointed under sub-section (1) of section 15-I of the Act;
  - (c) "appeal" means an appeal preferred under sub-section (1) of section 15T of the Act;
  - (d) "Appellate Tribunal" means the Securities Appellate Tribunal established under section 15K of the Act;
  - (e) "form" means the form appended to these rules;
  - <sup>1</sup>[(ee) "Member" means the Member of the Securities Appellate Tribunal appointed under section 15L of the Act;]
  - (f) "party" means a person who prefers an appeal before the Appellate Tribunal and includes respondent;
  - (g) "Presiding Officer" means the Presiding Officer of the Securities Appellate Tribunal appointed under section 15L of the Act;
  - (h) "rules" means the rules made under the Act;
  - <sup>2</sup>[(i) "Registrar" means the Registrar of the Appellate Tribunal and includes an officer of such Appellate Tribunal who is authorised by the Presiding Officer to function as Registrar;]
  - (j) "registry" means the registry of the Appellate Tribunal.

- (2) Words and expressions used and not defined in these rules but defined in the Securities and Exchange Board of India Act, 1992 shall have the meanings respectively assigned to them in that Act.

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- <sup>1</sup> Inserted by the Securities Appellate Tribunal (Procedure) (Amendment) Rules, 2003, w.e.f. 31-10-2003.
  - <sup>2</sup> Substituted by the Securities Appellate Tribunal (Procedure) (Amendment) Rules, 2000, w.e.f. 27-7-2001.

**Limitation for filing appeal**

3. (1) Every appeal shall be filed within a period of forty five days from the date on which a copy of the order against which the appeal is filed, is received by the appellant:  
**Provided** that the Appellate Tribunal may entertain an appeal after the expiry of the said period of forty five days if it is satisfied that there was sufficient cause for not filing it within that period.

**Form and procedure of appeal**

4. (1) A memorandum of appeal shall be presented in the Form by any aggrieved person in the registry of the Appellate Tribunal within whose jurisdiction his case falls or shall be sent by registered post



addressed to the Registrar.

(2) A memorandum of appeal sent by post shall be deemed to have been presented in the registry on the day it was received in the registry.

### **Sittings of Appellate Tribunal**

5. <sup>3</sup>[(1)]The Appellate Tribunal shall hold its sitting either at a place where its office is situated or at such other place falling within its jurisdiction, as it may deem fit by the Appellate Tribunal.

<sup>4</sup>[(2) In the temporary absence of the Presiding Officer, Government may authorise one of the two other Members to preside over the sitting of the Tribunal either at a place where its office is situated or at such other place falling within its jurisdiction as it may deem fit by the Appellate Tribunal.]

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<sup>3</sup>. Rule 5 numbered as sub-rule (1) by the Securities Appellate Tribunal (Procedure) (Amendment) Rules, 2003, w.e.f. 31-10-2003.

<sup>4</sup>. Inserted by the Securities Appellate Tribunal (Procedure) (Amendment) Rules, 2003, w.e.f. 31-10-2003.

### **Language of Appellate Tribunal**

6. (1) The proceedings of the Appellate Tribunal shall be conducted in English or Hindi.

(2) No appeal, application, representation, document or other matters contained in any language other than English or Hindi, shall be accepted by Appellate Tribunal, unless the same is accompanied by a true copy of translation thereof in English or Hindi.

### **Appeal to be in writing**

7. (1) Every appeal, application, reply, representation or any document filed before the Appellate Tribunal shall be typewritten, cyclostyled or printed neatly and legibly on one side of the good quality paper of foolscap size in double space and separate sheets shall be stitched together and every page shall be consecutively numbered and filed in the manner provided in sub-rule (2).

(2) The appeal under sub-rule (1) shall be presented in <sup>5</sup>[five] sets in a paper book along with an empty file size envelope bearing the full address of the respondent and in case the respondents are more than one, then sufficient number of extra paper books together with empty file size envelope bearing full addresses of each respondent shall be furnished by the appellant.

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<sup>5</sup>. Substituted for "3" by the Securities Appellate Tribunal (Procedure) (Amendment) Rules, 2005, w.e.f. 31-1-2005

### **Presentation and scrutiny of memorandum of appeal**

8. (1) The Registrar shall endorse on every appeal the date on which it is presented under rule 4 or deemed to have been presented under that rule and shall sign endorsement.

(2) If, on scrutiny, the appeal is found to be in order, it shall be duly registered and given a serial number.

(3) If an appeal on scrutiny is found to be defective and the defect noticed is formal in nature, the Registrar may allow the appellant to rectify the same in his presence and if the said defect is not formal

in nature, the Registrar may allow the appellant such time to rectify the defect as he may deem fit. If the appeal has been sent by post and found to be defective, the Registrar may communicate the defects to the appellant and allow the appellant such time to rectify the defect as he may deem fit.

(4) If the appellant fails to rectify the defect within the time allowed in sub-rule (3), the Registrar may by order and for reasons to be recorded in writing, decline to register such memorandum of appeal and communicate the order to the appellant within seven days thereof.

<sup>6</sup>[(5) An appeal against the order of the Registrar under sub-rule (4) shall be made within 15 days of receiving of such order to the Presiding Officer or in his temporary absence, to the Member authorized under sub-rule (2) of rule 5, whose decision thereon shall be final.]

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6. Substituted by the Securities Appellate Tribunal (Procedure) (Amendment) Rules, 2003, w.e.f. 31-10-2003.

### **Fee**

**9.** (1) Every memorandum of appeal shall be accompanied with a fee provided in sub-rule (2) and such fee may be remitted in the form of crossed demand draft drawn on any nationalised bank in favour of "the Registrar, Securities Appellate Tribunal" payable at the station where the registry is located.

(2) (i) The amount of fee payable in respect of appeal against adjudication orders made under Chapter VIA of the Act shall be as follows :—

#### *TABLE*

<i>Amount of penalty imposed</i>	<i>Amount of fees payable</i>
1. Less than rupees ten thousand	Rs. 500
2. Rupees ten thousand or more	Rs. 1,200 but less than one lakh
3. Rupees one lakh or more	<sup>7</sup> [Rs. 1200 <i>plus</i> Rs. 500 for every additional one lakh of penalty or fraction thereof, subject to a maximum of Rs. 1,50,000.]

(ii) Amount of fee payable in respect of any other appeal against an order of the Board under the Act shall be rupees five thousand only.

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7. Substituted for "Rs. 1200 *plus* Rs. 1,000 for every additional one lakh of penalty or fraction thereof" by the Securities Appellate Tribunal (Procedure) (Amendment) Rules, 2005, w.e.f. 31-1-2005.

### **Contents of memorandum of appeal**

**10.** (1) Every memorandum of appeal filed under rule 4 shall set forth concisely under distinct heads, the grounds of such appeal without any argument or narrative, and such ground shall be numbered consecutively and shall be in the manner provided in sub-rule (1) of rule 7.

(2) It shall not be necessary to present separate memorandum of appeal to seek interim order or direction if in the memorandum of appeal, the same is prayed for.

### **Documents to accompany memorandum of appeal**

**11.** <sup>6</sup>[(1) Every memorandum of appeal shall be in five copies and shall be accompanied with copies of the order, at least one of which shall be a certified copy, against which the appeal is filed.]

(2) Where a party is represented by an authorised representative, a copy of the authorisation to act as the authorised representative and the written consent thereto by such authorised representative, shall be

appended to the appeal.

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6. Substituted by the Securities Appellate Tribunal (Procedure) (Amendment) Rules, 2003, w.e.f. 31-10-2003.

### **Plural remedies**

**12.** A memorandum of appeal shall not seek relief or reliefs therein against more than one order unless the reliefs prayed for are consequential.

### **Notice of appeal to the respondent**

**13.** A copy of the memorandum of appeal and paper book shall be served by the Registrar on the respondent as soon as they are registered in the registry, by hand delivery, or by Registered Post or Speed Post.

### **Filing of reply to the appeal and other documents by the respondent**

**14.** (1) The respondent may file <sup>8</sup>[five] complete sets containing the reply to the appeal along with documents in a paper book form with the registry within one month of the service of the notice on him of the filing of the memorandum of appeal.

(2) Every reply, application or written representation filed before the Appellate Tribunal shall be verified in the manner provided for, in the Form.

(3) A copy of every application, reply, document or written material filed by the respondent before the Appellate Tribunal shall be forthwith served on the appellant, by the respondent.

(4) The Appellate Tribunal may, in its discretion, on application by the respondent allow the filing of reply referred to in sub-rule (1) after the expiry of the period referred to therein.

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8. Substituted for "three" by the Securities Appellate Tribunal (Procedure) (Amendment) Rules, 2003, w.e.f. 31-10-2003.

### **Date of hearing to be notified**

**15.** The Appellate Tribunal shall notify the parties of the date of hearing of the appeal in such manner as the Presiding Officer may by general or special order direct.

### **Hearing of appeal**

**16.** (1) On the day fixed or on any other day to which the hearing may be adjourned, the appellant shall be heard in support of the appeal. The Securities Appellate Tribunal shall, then, if necessary, hear the Board or its authorised representative against the appeal, and in such case the appellant shall be entitled to reply. During the course of the hearing of appeal the written arguments could be supplemented by time-bound oral arguments :

<sup>9</sup>[**Provided** that in case of temporary absence of the Presiding Officer or of the Member authorised by the Government under sub-rule (2) of rule 5, the Presiding Officer can authorise the other Member present on that day to hear the Board or authorised representative against the appeal.]

(2) In case the appellant does not appear in person or through an authorised representative when the appeal is called for hearing, the Securities Appellate Tribunal may dispose of the appeal on the merits :

**Provided** that where an appeal has been disposed of as provided above and the appellant appears

afterwards and satisfies the Securities Appellate Tribunal that there was sufficient cause for his non-appearance, when the appeal was called for hearing, the Securities Appellate Tribunal shall make an order setting aside the *ex parte* order and restore the appeal.

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9. Inserted by the Securities Appellate Tribunal (Procedure) (Amendment) Rules, 2003, w.e.f. 31-10-2003.

10 **[Dress regulations for the Presiding Officer, Members and for the representative of the parties]**

**17.** <sup>11</sup>[(1) The dress of the Presiding Officer shall be white or striped or black pant with black coat over white shirt and band or buttoned up black coat and band. The dress for the two other Members shall be white or striped or black pant with black coat over white shirt and black tie or buttoned up black coat. In the case of a female Presiding Officer or a Member, the dress shall be black coat over a white saree.]

(2) Every authorised representative, other than a relative or regular employee of the party shall appear before the Appellate Tribunal in his professional dress if any, and if there is no such dress, a male, in a suit or buttoned-up coat over a pant or national dress that is a long buttoned-up coat on dhoti or churidar pyjama, and a female, in a coat over white or any other sober coloured saree or in any other sober dress.

(3) All other persons appearing before the Appellate Tribunal shall be properly dressed.

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10. Substituted by the Securities Appellate Tribunal (Procedure) (Amendment) Rules, 2003, w.e.f. 31-10-2003.

11. Substituted by the Securities Appellate Tribunal (Procedure) (Amendment) Rules, 2005, w.e.f. 31-1-2005. Prior to its substitution, sub-rule (1), as amended by the Securities Appellate Tribunal (Procedure) (Amendment) Rules, 2003, w.e.f. 31-10-2003, read as under :

"(1) The dress for the Presiding Officer and two other Members shall be white or striped or black pant with black coat over white shirt and black tie or buttoned up black coat. In the case of a female Presiding Officer or a Member, the dress shall be black coat over the white saree."

**Order to be signed and dated**

<sup>12</sup>**[18.** (1) Every order of the Appellate Tribunal shall be signed and dated by the Presiding Officer and the two other members. The Presiding Officer will have powers to pass interim orders or injunction, subject to reasons to be recorded in writing, which it considers necessary in the interest of justice.

(2) Orders shall be pronounced in the sitting of the Appellate Tribunal by the Presiding Officer or in case of the temporary absence of the Presiding Officer, by the Member authorized under sub-rule (2) of rule 5.]

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12. Substituted by the Securities Appellate Tribunal (Procedure) (Amendment) Rules, 2003, w.e.f. 31-10-2003.

**Publication of orders**

**19.** The orders of the Appellate Tribunal, as are deemed fit for publication in any authoritative report or the press may be released for such publication on such terms and conditions as the Presiding Officer may lay down.

**Communication of orders**

**20.** A certified copy of every order passed by the Appellate Tribunal shall be communicated to the Board, the Adjudicating Officer and to the parties, as the case may be.

### **Orders and directions in certain cases**

**21.** The Appellate Tribunal may make, such orders or give such directions as may be necessary or expedient to give effect to its orders or to prevent abuse of its process or to secure the ends of justice.

### **Fee for inspection of records and obtaining copies thereof**

**22.** (1) A fee of rupees twenty, for every hour or part thereof of inspection subject to a minimum of rupees one hundred shall be charged for inspecting the records of a pending appeal by a party thereto.

(2) A fee of rupees five for a folio or part thereof not involving typing and a fee of rupees ten for a folio or part thereof involving typing of statement and figures shall be charged for providing copies of the records of an appeal, to a party thereto

### **Working hours of the Appellate Tribunal**

**23.** (1) The office of the Appellate Tribunal shall observe such public and other holidays as observed by the offices of the Central Government in the locality where the office of the Appellate Tribunal is situated.

(2) The Appellate Tribunal shall, subject to any other order made by the Presiding Officer, remain open on working days from 10 AM to 6.00 PM. But no work, unless of an urgent nature, shall be admitted after 4.30 PM on any working day.

(3) The sitting hours of the Appellate Tribunal shall ordinarily be from 10.30 AM to 1.00 PM and 2.00 PM to 5.00 PM, subject to any order made by the Presiding Officer.

### **Holiday**

**24.** Where the last day for doing any act falls on a day on which the office of the Appellate Tribunal is closed and by reason thereof the act cannot be done on that day, it may be done on the next day on which that office opens.

### **Functions of the Registrar**

**25.** <sup>13</sup>[(1) The Registrar shall discharge his functions under the general superintendence of the Presiding Officer or in the temporary absence of the Presiding Officer, the Member authorized under sub-rule (2) of rule 5. He shall discharge such other functions as are assigned to him under these rules by the Presiding Officer or in the temporary absence of the Presiding Officer, by the Member authorized under sub-rule (2) of rule 5, by a separate order in writing.]

(2) He shall have the custody of the records of the Appellate Tribunal.

(3) The official seal of the Appellate Tribunal shall be kept in the custody of the Registrar.

<sup>13</sup>[(4) Subject to any general or special direction by the Presiding Officer, or in the temporary absence of the Presiding Officer, the Member authorized under sub-rule (2) of rule 5, the official seal of the Appellate Tribunal shall not be affixed to any order, summons or other process save under the authority in writing from the Registrar.]

(5) The official seal of the Appellate Tribunal shall not be affixed to any certified copy issued by the Appellate Tribunal, save under the authority in writing of the Registrar.

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<sup>13</sup>. Substituted by the Securities Appellate Tribunal (Procedure) (Amendment) Rules, 2003,

w.e.f. 31-10-2003.

### **Additional functions and duties of Registrar**

<sup>13</sup>[26. In addition to the functions and duties assigned in the rules, the Registrar shall have the following functions and duties subject to any general or special order of the Presiding Officer or in his temporary absence, the Member authorized under sub-rule (2) of rule 5, namely :—

- (i) to receive all appeals, replies and other documents;
- (ii) to decide all questions arising out of the scrutiny of the appeal before they are registered;
- (iii) to require any appeal presented to the Appellate Tribunal to be amended in accordance with the rule;
- (iv) subject to the directions of the Presiding Officer, or in his temporary absence, the member authorized under sub-rule (2) of rule 5, to fix date of hearing of the appeal or other proceedings and issue notices thereon;
- (v) to direct any formal amendment or records;
- (vi) to order grant of copies of documents to parties to proceedings;
- (vii) to grant leave to inspect the record of the Appellate Tribunal;
- (viii) to dispose of all matters relating to the service of notices or other processes, application for the issue of fresh notice or for extending the time for or ordering a particular method of service on a respondent including a substituted service by publication of the notice by way of advertisement in the newspapers; and
- (ix) to requisition records from the custody of any court or other authority.]

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<sup>13</sup>. Substituted by the Securities Appellate Tribunal (Procedure) (Amendment) Rules, 2003, w.e.f. 31-10-2003.

### **Seal and emblem**

27. The official seal and emblem of the Appellate Tribunal shall be such as the Central Government may specify.

### **Repeal and saving**

28. (1) The Securities and Exchange Board of India Appellate Tribunal (Procedure) Rules, 1995 are hereby repealed.

(2) Notwithstanding such repeal anything done or any action taken under the said rules, shall be deemed to have been done or taken under the corresponding provisions of these rules.

## Regulation - 1, Securities Contracts (Regulation) (Appeal to Securities Appellate ...

### SECURITIES CONTRACTS (REGULATION) (APPEAL TO SECURITIES APPELLATE TRIBUNAL) RULES, 2000

*In exercise of the powers conferred by section 30 read with section 22A of the Securities Contracts (Regulation) Act, 1956 (42 of 1956) the Central Government hereby makes the following rules, namely :—*

#### Short title and commencement

1. (1) These rules may be called the Securities Contracts (Regulation) (Appeal to Securities Appellate Tribunal) Rules, 2000.

(2) They shall come into force on the date<sup>1</sup> of their publication in the Official Gazette.

#### Definitions

<sup>2</sup>[2.] (1) In these rules, unless the context otherwise requires,—

(a) "Act" means the Securities Contracts (Regulation) Act, 1956 (42 of 1956);

<sup>3</sup>[(b) "appeal" means an appeal filed under section 21A or section 22A or section 23L of the Securities Contracts (Regulation) Act, 1956 or under sub-rule (5) of rule 19 or sub-rule (5) of rule 20 of the Securities Contracts (Regulation) Rules, 1957;]

(c) "Appellate Tribunal" means the Securities Appellate Tribunal constituted under section 15K of the Securities and Exchange Board of India Act, 1992 (15 of 1992);

(d) "bye-laws" means bye-laws made by a stock exchange under the Act;

(e) "form" means the form appended to these rules;

<sup>4</sup>[(ea) "Member" means the member of the Securities Appellate Tribunal appointed under section 15L of the Securities and Exchange Board of India Act, 1992 (15 of 1992);]

(f) "party" means a person who prefers an appeal before the Appellate Tribunal and includes respondents;

(g) "Presiding Officer" means the Presiding Officer of the Securities Appellate Tribunal appointed under section 15L of the Securities and Exchange Board of India Act, 1992 (15 of 1992);

<sup>5</sup>[(h) "Registrar" means the Registrar of the Appellate Tribunal and includes an officer of such Appellate Tribunal who is authorised by the Presiding Officer to function as Registrar;]

(i) "registry" means the registry of the Appellate Tribunal;

(j) "rules" means the rules made under the Act;

(k) "recognised stock exchange" means a stock exchange defined under clause (f) of section 2 of the Act;

(l) "stock exchange" means a stock exchange defined under clause (j) of section 2 of the Act.

(2) Words and expressions used and not defined in these rules but defined in the Securities Contracts (Regulation) Act, 1956 shall have the meanings respectively assigned to them in that Act.



### **Limitation for filing appeal**

3. <sup>6</sup>[(1)] Where a recognised stock exchange acting in pursuance of any power given to it by its bye-laws, refuses to list the securities of any company, the company shall be entitled to be furnished with reasons for such refusal and may,—

- (a) within 15 days from the date on which the reasons for such refusal are furnished to it, or
- (b) where the stock exchange had omitted or failed to dispose of, within the time specified in sub-section (1A) of section 73 of the Companies Act, 1956 (hereinafter in this rule referred to as the "specified time"), the application for permission for the shares or debentures to be dealt with on the stock exchange, within 15 days from the date of expiry of the specified time or within such further period, not exceeding one month, as the Appellate Tribunal may, on sufficient cause being shown, allow,

appeal to the Securities Appellate Tribunal having jurisdiction in the matter against such refusal, omission or failure, as the case may be.

<sup>6</sup>[(2) Every appeal shall be filed within a period of forty-five days from the date on which a copy of the order, against which the appeal is filed, of a recognised stock exchange withdrawing admission to dealings or suspending admission to dealings which continues for a period exceeding three months in any security/units or other instruments of a "collective instrument scheme", as defined under the Securities and Exchange Board of India Act, 1992 (15 of 1992), is received by the appellant :

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

### **Form and procedure of appeal**

4. (1) A memorandum of appeal shall be presented in the Form by any aggrieved person in the registry of the Appellate Tribunal within whose jurisdiction his case falls or shall be sent by registered post addressed to the Registrar.

(2) A memorandum of appeal sent by post shall be deemed to have been presented in the registry on the date it was received in the registry.

### **Sittings of Appellate Tribunal**

5. <sup>7</sup>[(1)] The Appellate Tribunal shall hold its sitting either at a place where its office is situated or at such other place falling within its jurisdiction, as it may deem fit.

<sup>8</sup>[(2) In the temporary absence of the Presiding Officer, Government may authorise one of the two other members to preside over the sitting of the Tribunal either at a place where its office is situated or at such other place falling within its jurisdiction as it may deem fit by the Appellate Tribunal.]

### **Language of Appellate Tribunal**



6. (1) The proceedings of the Appellate Tribunal shall be conducted in English or Hindi.
- (2) No appeal, application, representation, document or other matters contained in any language other than English or Hindi, shall be accepted by Appellate Tribunal, unless the same is accompanied by a true copy of translation thereof in English or Hindi.

### **Appeal to be in writing**

7. (1) Every appeal, application, reply, representation or any document filed before the Appellate Tribunal shall be typewritten, cyclostyled or printed neatly and legibly on one side of the good quality paper of foolscap size in double space and separate sheets shall be stitched together and every page shall be consecutively numbered and filed in the manner provided in sub-rule (2).
- (2) The appeal under sub-rule (1) shall be presented in <sup>9</sup>[five] sets in a paper book along with an empty file size envelope bearing full address of the respondent and in case the respondents are more than one, then sufficient number of extra paper books together with empty file size envelope bearing full addresses of each respondent shall be furnished by the appellant.

### **Presentation and scrutiny of memorandum of appeal**

8. (1) The Registrar shall endorse on every appeal the date on which it is presented under rule 4 or deemed to have been presented under that rule and shall sign endorsement.
- (2) If, on scrutiny, the appeal is found to be in order, it shall be duly registered and given a serial number.
- (3) If an appeal on scrutiny is found to be defective and the defect noticed is formal in nature, the Registrar may allow the appellant to rectify the same in his presence and if the said defect is not formal in nature, the Registrar may allow the appellant such time to rectify the defect as he may deem fit. If the appeal has been sent by post and found to be defective, the Registrar may communicate the defects to the appellant and allow the appellant such time to rectify the defect as he may deem fit.
- (4) If the appellant fails to rectify the defect within the time allowed in sub-rule (3), the Registrar may by order and for reasons to be recorded in writing, decline to register such memorandum of appeal and communicate the order to the appellant within seven days thereof.
- <sup>10</sup>[(5) An appeal against the order of the Registrar under sub-rule (4) shall be made within 15 days of receiving of such order to the Presiding Officer or in his temporary absence, to the Member authorized under sub-rule (2) of rule 5, whose decision thereon shall be final.]

### **Payment of Fees**

9. <sup>11</sup>[(1) Every memorandum of appeal shall be accompanied with a fee as provided in sub-rule (2) and such fee may be remitted in the form of crossed demand draft drawn on any nationalized bank in favour of "the Registrar, Securities Appellate Tribunal" payable at the station where the registry is located.
- (2) The amount of fee payable in respect of appeal against adjudication orders made under the Act shall be as follows :

TABLE

<i>Serial No.</i>	<i>Amount of Penalty Imposed</i>	<i>Amount of fees payable</i>
(1)	(2)	(3)
(i)	Less than rupees ten thousand	Rs. 500
(ii)	Rupees ten thousand or more but less than one lakh	Rs. 1200
(iii)	Rupees one lakh or more	Rs. 1200 plus Rs. 500 for every additional one lakh of penalty or fraction thereof subject to a maximum of Rs. 1,50,000.]

#### **Contents of memorandum of appeal**

**10.** (1) Every memorandum of appeal filed under rule 4 shall set forth concisely under distinct heads, the grounds of such appeal without any argument or narrative, and such ground shall be numbered consecutively and shall be in the manner provided in sub-rule (1) of rule 7.

(2) It shall not be necessary to present separate memorandum of appeal to seek interim order or direction if in the memorandum of appeal, the same is prayed for.

#### **Documents to accompany memorandum of appeal**

**11.** <sup>12</sup>[(1) Every memorandum of appeal shall be in five copies and shall be accompanied with copies of the order, at least one of which shall be a certified copy, against which the appeal is filed.]

(2) Where a party is represented by authorised representative, a copy of the authorisation to act as the authorised representative and the written consent thereto by such authorised representative, shall be appended to the appeal.

#### **Plural remedies**

**12.** A memorandum of appeal shall not seek relief or reliefs therein against more than one order unless the reliefs prayed for are consequential.

#### **Notice of appeal to the respondent**

**13.** A copy of the memorandum of appeal and paper book shall be served by the Registrar on the respondent as soon as they are registered in the registry, by hand delivery, or by Registered Post or Speed Post.

### **Filing of reply to the appeal and other documents by the respondents**

14. (1) The respondent may file <sup>13</sup>[five] complete sets containing the reply to the appeal along with documents in a paper book form with the registry within one month of the service of the notice on him of the filing of the memorandum of appeal.

(2) Every reply, application or written representation filed before the Appellate Tribunal shall be verified in the manner provided for, in the Form.

(3) A copy of every application, reply, document or written material filed by the respondent before the Appellate Tribunal shall be forthwith served on the appellant, by the respondent.

(4) The Appellate Tribunal may, in its discretion, on application by the respondent allow the filing of reply referred to in sub-rule (1) after the expiry of the period referred to therein.

### **Date of hearing to be notified**

15. The Appellate Tribunal shall notify the parties of the date of hearing of the appeal in such manner as the Presiding Officer may by general or special order direct.

### **Hearing of appeal**

16. (1) On the day fixed or on any other day to which the hearing may be adjourned, the appellant shall be heard in support of the appeal. The Securities Appellate Tribunal shall, then, if necessary, hear the Board or its authorised representative against the appeal, and in such case the appellant shall be entitled to reply. During the course of the hearing of appeal the written arguments could be supplemented by time-bound oral arguments :

<sup>14</sup>[Provided that in case of temporary absence of the Presiding Officer or of the Member authorised by the Government under sub-rule (2) of rule 5, the Presiding Officer can authorise the other Member present on that day to hear the Board or authorised representative against the appeal.]

(2) In case the appellant does not appear in person or through an authorised representative when the appeal is called for hearing, the Securities Appellate Tribunal may dispose of the appeal on the merits :

**Provided** that where an appeal has been disposed of as provided above and the appellant appears afterwards and satisfies the Securities Appellate Tribunal that there was sufficient cause for his not appearance, when the appeal was called for hearing, the Securities Appellate Tribunal shall make an order setting aside the *ex parte* order and restore the appeal.

### **[Dress regulations for the Presiding Officer, Members and for the representative of the parties**

17. (1) The dress for the Presiding Officer shall be white or striped or black pant with black coat over white shirt and band or buttoned up black coat and band. The dress for the two other Members shall be white or striped or black pant with black coat over white shirt and black tie or buttoned up black coat. In the case of a female Presiding Officer or a Member, the dress shall be black coat over a white saree.

(2) Every authorized representative, other than a relative or regular employee of the party shall appear before the Appellate Tribunal in his professional dress if any, and if there is no such dress, a male, in a suit or buttoned up coat over a pant or national dress, that is a long buttoned up coat on dhoti or churidar pyjama, and a female, in a coat over white or any other sober coloured saree or in any other sober dress.

(3) All other persons appearing before the Appellate Tribunal shall be properly dressed.]

### **Order to be signed and dated**

18. (1) Every order of the Appellate Tribunal shall be signed and dated by the Presiding Officer and the two other Members. The Presiding Officer will have powers to pass such interim orders or injunction, subject to reasons to be recorded in writing, which it considers necessary in the interest of justice.

(2) Orders shall be pronounced in the sitting of the Appellate Tribunal by the Presiding Officer or in case of the temporary absence of the Presiding Officer, by the Member authorized under sub-rule (2) of rule 5.]

### **Publication of orders**

19. The orders of the Appellate Tribunal, as are deemed fit for publication in any authoritative report or the press may be released for such publication on such terms and conditions as the Presiding Officer may lay down.

### **Communication of orders**

20. A certified copy of every order passed by the Appellate Tribunal shall be communicated to the Board, the Adjudicating Officer and to the parties, as the case may be

### **Orders and directions in certain cases**

21. The Appellate Tribunal may make such orders or give such directions as may be necessary or expedient to give effect to its orders or to prevent abuse of its process or to secure the ends of justice.

### **Fee for inspection of records and obtaining copies thereof**

22. (1) A fee of rupees twenty, for every hour or part thereof of inspection subject to a minimum of rupees one hundred shall be charged for inspecting the records of a pending appeal by a party thereto.

(2) A fee of rupees five for a folio or part thereof not involving typing and a fee of rupees ten for a folio or part thereof involving typing of statement and figures shall be charged for providing copies of the records of an appeal, to a party thereto.

### **Working hours of the Appellate Tribunal**

23. (1) The office of the Appellate Tribunal shall observe such public and other holidays as observed by the offices of the Central Government in the locality where the office of the Appellate Tribunal is situated.

(2) The Appellate Tribunal shall, subject to any other order made by the Presiding Officer, remain open on the working days from 10.00 AM to 6.00 PM. But no work, unless of an urgent nature, shall be admitted after 4.30 PM on any working day.

(3) The sitting hours of the Appellate Tribunal shall ordinarily be from 10.30 AM to 1.00 PM and 2.00 PM to 5.00 PM, subject to any order made by the Presiding Officer.

### **Holiday**

24. Where the last day for doing any act falls on a day on which the office of the Appellate Tribunal is closed and by reason thereof the act cannot be done on that day, it may be done on the next day on which that office opens.

### **Functions of the Registrar**

25. <sup>17</sup>[(1) The Registrar shall discharge his functions under the general superintendence of the Presiding Officer or in the temporary absence of the Presiding Officer, the Member authorized under sub-rule (2) of rule 5. He shall discharge such other functions as are assigned to him under these rules by the Presiding Officer or in the temporary absence of the Presiding Officer, by the Member authorized under sub-rule (2) of rule 5, by a separate order in writing.]

(2) He shall have the custody of the records of the Appellate Tribunal.

(3) The official seal of the Appellate Tribunal shall be kept in the custody of the Registrar.

<sup>18</sup>[(4) Subject to any general or special direction by the Presiding Officer, or in the temporary absence of the Presiding Officer, the Member authorized under sub-rule (2) of rule 5, the official seal of the Appellate Tribunal shall not be affixed to any order, summons or other process save under the authority in writing from the Registrar.]

(5) The official seal of the Appellate Tribunal shall not be affixed to any certified copy issued by the Appellate Tribunal, save under the authority in writing of the Registrar.

### <sup>3</sup>**[Additional functions and duties of Registrar**

26 . In addition to the functions and duties assigned in the rules, the Registrar shall have the following functions and duties subject to any general or special order of the Presiding Officer or in his temporary absence, the Member authorized under sub-rule (2) of rule 5, namely:—

- (i) to receive all appeals, replies and other documents;
- (ii) to decide all questions arising out of the scrutiny of the appeal before they are registered;
- (iii) to require any appeal presented to the Appellate Tribunal to be amended in accordance with the rule;

- (iv) subject to the directions of the Presiding Officer, or in his temporary absence, the Member authorized under sub-rule (2) of rule 5, to fix a date of hearing of the appeals or other proceedings and issue notices thereof;
- (v) to direct any formal amendment of records;
- (vi) to order grant of copies of documents to parties to proceedings;
- (vii) to grant leave to inspect the record of the Appellate Tribunal;
- (viii) to dispose of all matters relating to the service of notices or other processes, application for the issue of fresh notice or for extending the time for or ordering a particular method of service on a respondent including a substituted service by publication of the notice by way of advertisement in the newspapers; and
- (ix) for requisition of records from the custody of any court or other authority.]

### **Seal and emblem**

**27.** The official seal and emblem of the Appellate Tribunal shall be such as the Central Government may specify.

## **SECURITIES CONTRACTS (REFERENCE TO THE COMPANY LAW BOARD) RULES, 1986\***

*Whereas certain draft rules were published as required by sub-section (3) of section 30 of the Securities Contracts (Regulation) Act, 1956 (42 of 1956), in the Gazette of India, Extraordinary, Part II, section 3, sub-section (i), dated the 30th September, 1985, under the notification of the Government of India in the Ministry of Finance (Department of Economic Affairs) No. GSR 770(E), dated 30th September, 1985, inviting objections and suggestions from all persons likely to be affected thereby before the expiry of a period of forty-five days from the date on which the copies of the Gazette of India in which the said notification was published were made available to the public;*

*And whereas the copies of the Gazette of India were made available to the public on the 22nd October, 1985;*

*And whereas the objections and suggestions received from the public on the said draft rules have been considered by the Central Government;*

*Now, therefore, in exercise of the powers conferred by sub-section (1) and clause (ha) of sub-section (2) of section 30 of the Securities Contracts (Regulation) Act, 1956 (42 of 1956), the Central Government hereby makes the following rules, namely:—*

### **Short title and commencement.**

1. (1) These rules may be called the Securities Contracts (Reference to the Company Law Board) Rules, 1986.
- (2) They shall come into force on the date of their publication in the Official Gazette.

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\* See also 'Securities Contracts (Regulation) (Appeal to Securities Appellate Tribunal) Rules, 2000'.

### **Definitions.**

2. In these rules, unless the context otherwise requires,—

- (a) "Act" means the Securities Contracts (Regulation) Act, 1956 (42 of 1956);
- (b) "Bench" means a Bench of the Company Law Board formed under sub-section (4B) of section 10E of the Companies Act, 1956 (1 of 1956);
- (c) "Bench Rules" means the Company Law Board (Bench) Rules, 1975;
- (d) "Form" means a form appended to these rules.

### **Notice to the transferor and the transferee.**

3. The notice referred to in clause (b) of sub-section (4) of section 22A of the Act, shall be in Form No. 1.

### **Reference to the Company Law Board.**

4. Every reference under clause (c) of sub-section (4) of section 22A of the Act as referred to in sub-section (5) of that section, shall be in Form No. 10 of Appendix I to the Bench Rules and shall be accompanied by such documents and enclosure as are specified in Appendix II to the said rules.

### **Fees.**

5. Every reference under rule 4 shall be accompanied by a fee of rupees one hundred only.

## **\*SECURITIES CONTRACTS (REGULATION) RULES, 1957**

In exercise of the powers conferred by section 30 of the Securities Contracts (Regulation) Act, 1956 (42 of 1956), the Central Government hereby makes the following rules, the same having been previously published as required by sub-section (3) of the said section, namely: —

### **Short title.**

**1.** These rules may be called the Securities Contracts (Regulation) Rules, 1957.

### **Definitions.**

**2.** In these rules, unless the context otherwise requires, —

(a) “form” means a form appended to these rules;

(b) “the Act” means the Securities Contracts (Regulation) Act, 1956 (42 of 1956);

<sup>1</sup>[(c) “Government company” means a Government company as defined in clause 45 of section 2 of the Companies Act, 2013 (18 of 2013);]

<sup>2</sup>[(d) “public” means persons other than —

(i) the promoter and promoter group;

(ii) subsidiaries and associates of the company.

**Explanation:** For the purpose of this clause the words “promoter” and “promoter group” shall have the same meaning as assigned to them under the Securities and Exchange Board of India (Issue of Capital and Disclosure Requirements) Regulations, 2009;]

<sup>3</sup>[(da) “public sector company” means a body corporate constituted by an Act of Parliament or any State Legislature and includes a government company;]

<sup>4</sup>[(e) “public shareholding” means equity shares of the company held by public including shares underlying the depository receipts if the holder of such depository receipts has the right to issue voting instruction and such depository receipts are listed on an international exchange in accordance with the Depository Receipts Scheme, 2014:

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**\* These Rules have been updated based on the Rules and Amendments available on the website of the Department of Economic Affairs- <http://finmin.nic.in/law/index.asp> and available amendment notifications.**

<sup>1</sup> Substituted by the Securities Contracts (Regulation) Amendment Rules, 2022, w.e.f. 02.01.2023. Prior to substitution, clause (c) read as follows:

*“Government company” means a company in which not less than fifty-one per cent of the share capital is held by the Central Government or by any State Government or Governments or partly by the Central Government and partly by one or more State Governments;”*

<sup>2</sup> Inserted by the Securities Contracts (Regulation) (Amendment) Rules, 2010, w.e.f. 04.06.2010.

<sup>3</sup> Inserted by the Securities Contracts (Regulation) (Second Amendment) Rules, 2010, w.e.f. 09.08.2010.

<sup>4</sup> Substituted by the Securities Contracts (Regulation) (Amendment) Rules, 2015, w.e.f. 25.02.2015. Prior to substitution, clause (e) read as under-

*“public shareholding” means equity shares of the company held by public and shall exclude shares which are held by custodian against depository receipts issued overseas.*



Provided that the equity shares of the company held by the trust set up for implementing employee benefit schemes under the regulations framed by the Securities and Exchange Board of India shall be excluded from public shareholding]

#### **Application for recognition.**

**3.** An application under section 3 of the Act for recognition of a stock exchange shall be made to the <sup>5</sup>[Securities and Exchange Board of India] in Form A.

#### **Fees for application.**

**4.** (1) There shall be paid in respect of every application under rule 3 a fee of rupees five hundred.

(2) The amount of the fee shall be deposited in the nearest Government treasury or the nearest branch of the State Bank of India:

Provided that at Bombay, Calcutta, Madras, Delhi and Kanpur, the amount shall be deposited in the Reserve Bank of India.

(3) The amount of the fee so deposited shall be credited to the receipt head “XLVI—Miscellaneous—Other fees, fines and forfeitures”.

#### **Documents to be filed along with the application and particulars it should contain.**

**5.** Every application shall be accompanied by four copies of the rules (including the memorandum and articles of association where the applicant stock exchange is an incorporated body) and bye-laws of the stock exchange applying for recognition as specified in section 3 of the Act and the receipt granted by the Government treasury, or as the case may be, the State Bank of India or the Reserve Bank of India, in respect of the amount of the fee deposited and shall contain clear particulars as to the matters specified in the Annexure to Form A.

#### **<sup>6</sup>[Power to make inquiries and call for information.**

**5A.** Before granting recognition to a stock exchange under section 4 of the Act, the <sup>7</sup>[Securities and Exchange Board of India] may make such inquiries and require such further information to be furnished, as it deems necessary, relating to the information furnished by the stock exchange in the Annexure to its application in Form A.]

#### **Form of recognition.**

**6.** The recognition granted to a stock exchange shall be in Form B and be subject to the following conditions, namely: —

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<sup>5</sup> Substituted for “Central Government” by the Securities Contracts (Regulation) (Amendment) Rules, 1996, w.e.f. 23.12.1996.

<sup>6</sup> Inserted by GSR 1096 dated 14.07.1967, w.e.f. 22.07.1967

<sup>7</sup> Substituted for “Central Government” by the Securities Contracts (Regulation)(Amendment) Rules, 1996, w.e.f. 23.12.1996.

- (a) that the recognition unless granted on a permanent basis, shall be for such period not less than one year as may be specified in the recognition;
- (b) that the stock exchange shall comply with such conditions as are or may be prescribed or imposed under the provisions of the Act and these rules from time to time.

### **Renewal of recognition.**

7. (1) Three months before the expiry of the period of recognition, a recognised stock exchange desirous of renewal of such recognition may make an application to the <sup>8</sup>[Securities and Exchange Board of India] in Form A.

(2) The provisions of rule 3, rule 4, rule 5, rule 5A and rule 6 shall apply in relation to renewal of recognition as they apply in relation to grant of recognition except that the fee payable in respect of an application for renewal of recognition shall be rupees two hundred.

### **Qualifications for membership of a recognised stock exchange.**

8. The rules relating to admission of members of a stock exchange seeking recognition shall *inter alia* provide that:

- (1) No person shall be eligible to be elected as a member if—
  - (a) he is less than twenty-one years of age;
  - (b) he is not a citizen of India; provided that the governing body may in suitable cases relax this condition with the prior approval of the <sup>9</sup>[Securities and Exchange Board of India];
  - (c) he has been adjudged bankrupt or a receiving order in bankruptcy has been made against him or he has been proved to be insolvent even though he has obtained his final discharge;
  - (d) he has compounded with his creditors unless he has paid sixteen annas in the rupee;
  - (e) he has been convicted of an offence involving fraud or dishonesty;
  - (f) he is engaged as principal or employee in any business other than that of securities <sup>9</sup>[or commodity derivatives] except as a broker or agent not involving any personal financial liability unless he undertakes on admission to sever his connection with such business :

<sup>10</sup>[\*\*\*]

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<sup>8</sup> Substituted for “Central Government” by the Securities Contracts (Regulation) (Amendment) Rules, w.e.f. 23.12.1996.

<sup>9</sup> Inserted by the Securities Contracts (Regulation) (Amendment) Rules, 2003, w.e.f. 28.08.2003.

<sup>10</sup> Omitted by the Securities Contracts (Regulation) (Second Amendment) Rules, 2017, w.e.f. 27.06.2017. Prior to omission it read as under:

“[Provided that no member may conduct business in commodity derivatives, except by setting up a separate company which shall comply with the regulatory requirements, such as, networth, capital adequacy, margins and exposure norms as may be specified by the Forward Market Commission, from time to time:”

<sup>11</sup>[Provided that nothing herein shall be applicable to any corporations, bodies corporate, companies or institutions referred to in clauses (a) to (n) of sub-rule (8).]

(g) <sup>12</sup>[\*\*\*]

(h) he has been at any time expelled or declared a defaulter by any other stock exchange;

(i) he has been previously refused admission to membership unless a period of one year has elapsed since the date of such rejection.

(2) No person eligible for admission as a member under sub-rule (1) shall be admitted as a member unless: —

(a) he has worked for not less than two years as a partner with, or an authorised assistant or authorised clerk or remisier or apprentice to, a member; or

(b) he agrees to work for a minimum period of two years as a partner or representative member with another member and to enter into bargains on the floor of the stock exchange and not in his own name but in the name of such other member; or

(c) he succeeds to the established business of a deceased or retiring member who is his father, uncle, brother or any other person who is, in the opinion of the governing body, a close relative:

Provided that the rules of the stock exchange may authorise the governing body to waive compliance with any of the foregoing conditions if the person seeking admission is in respect of means, position, integrity, knowledge and experience of business in securities, considered by the governing body to be otherwise qualified for membership.

(3) No person who is a member at the time of application for recognition or subsequently admitted as a member shall continue as such if—

(a) he ceases to be a citizen of India:

Provided that nothing herein shall affect those who are not citizens of India but who were members at the time of such application or were admitted subsequently under the provisions of clause (b) of sub-rule (1) of this rule, subject to their complying with all other requirements of this rule;

(b) he is adjudged bankrupt or a receiving order in bankruptcy is made against him or he is proved to be insolvent;

(c) he is convicted of an offence involving fraud or dishonesty;

(d) <sup>13</sup>[\* \* \*]

(e) <sup>14</sup>[\* \* \*]

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<sup>11</sup> Substituted by the Securities Contracts (Regulation) (Second Amendment) Rules, 2017, w.e.f. 27.06.2017. Prior to substitution it read as under:

“Provided further that nothing herein shall be applicable to any corporations, bodies corporate, companies or institutions referred to in items (a) to (n)<sup>11</sup> of the proviso to sub-rule (4).;”

Footnote in above amendment read as under- “Substituted for "(a) to (k)" by Securities Contracts (Regulation) (Amendment) Rules, 2014, w.e.f.16.1.2014.”

<sup>12</sup> Omitted by GSR 1070(E) dated 15.11.1988

<sup>13</sup> Ibid.

<sup>14</sup> Ibid.

- (f) he engages either as principal or employee in any business other than that of securities <sup>15</sup>[or commodity derivatives] except as a broker or agent not involving any personal financial liability, provided that—
- (i) the governing body may, for reasons, to be recorded in writing, permit a member to engage himself as principal or employee in any such business, if the member in question ceases to carry on business on the stock exchange either as an individual or as a partner in a firm,
  - (ii) in the case of those members who were under the rules in force at the time of such application permitted to engage in any such business and were actually so engaged on the date of such application, a period of three years from the date of the grant of recognition shall be allowed for severing their connection with any such business,
- <sup>16</sup>[(iii) nothing herein shall affect members of a recognised stock exchange which are corporations, bodies corporate, companies or institutions referred to in items [(a) to (n) of sub-rule (8)]<sup>17</sup>.
- (4) A company as defined in the Companies Act, 1956 (1 of 1956), shall be eligible to be elected as a member of a stock exchange if—
- (i) such company is formed in compliance with the provisions of section 322 of the said Act;
  - (ii) a majority of the directors of such company are shareholders of such company and also members of that stock exchange; and
  - (iii) the directors of such company, who are members of that stock exchange, have ultimate liability in such company.
- <sup>18</sup>\*\*\*]

<sup>15</sup> Inserted by the Securities Contracts (Regulation) (Amendment) Rules, 2003, w.e.f. 28.08.2003.

<sup>16</sup> Substituted, *ibid.* Prior to its substitution, sub-clause (iii) read as under:

“(iii) nothing herein shall affect members of a recognized stock exchange permitted under the proviso to clause (f) of sub-rule(1) to suspend the enforcement of the aforesaid clause, for so long as such suspension is effective, except that no member of such exchange shall engage in forward business of any kind whether in goods or commodities or otherwise and , if actually so engaged on the date of such application , he shall sever his connection with any such business within a period of three years from the date of the grant of recognition.”

<sup>17</sup> Substituted for “items (a) to (n) of the proviso to sub-rule (4)”, by the Securities Contracts (Regulation) (Second Amendment) Rules, 2017, w.e.f. 27.06.2017.

Prior to this, Substituted "(a) to (k)" by Securities Contracts (Regulation) (Amendment) Rules, 2014, w.e.f.16.1.2014

<sup>18</sup> Omitted by the Securities Contracts (Regulation) (Amendment) Rules, 2017, w.e.f. 20.03.2017. Prior to omission the proviso read as under-

“Provided that where the<sup>18</sup>[Securities and Exchange Board of India] makes a recommendation in this regard, the governing body of a stock exchange shall, in relaxation of the requirements of this clause, admit as member the following corporations <sup>18</sup>[,bodies corporate], companies or institutions, namely :—

(a) the Industrial Finance Corporation, established under the Industrial Finance Corporation Act, 1948 (15 of 1948);

(b) the Industrial Development Bank of India, established under the Industrial Development Bank Act, 1964 (18 of 1964);

<sup>18</sup>[(c) any insurance company granted registration by the Insurance Regulatory Development Authority under the Insurance Act, 1938 (4 of 1938)]

(d)<sup>19</sup> [\* \* \*]

(4A) A company as defined in the Companies Act, 1956 (1 of 1956), shall also be eligible to be elected as a member of a stock exchange if—

- (i) such company is formed in compliance with the provisions of section 12 of the said Act;
- (ii) such company undertakes to comply with such financial requirements and norms as may be specified by the Securities and Exchange Board of India for the registration of such company under sub-section (1) of section 12 of the Securities and Exchange Board of India Act, 1992 (15 of 1992);
- (iii) <sup>19</sup>[\* \* \*]
- (iv) the directors of the company are not disqualified from being members of a stock exchange under <sup>20</sup>[clause (1) [except sub-clause (b) and sub-clause (f) thereof] or clause (3) [except sub-clause (a) and sub-clause (f) thereof]] and the Directors of the company had not held the offices of the Directors in any

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(e) the Unit Trust of India, established under the Unit Trust of India Act, 1963 (52 of 1963);

(f) the Industrial Credit and Investment Corporation of India, a company registered under the Companies Act, 1956 (1 of 1956);

(g) the subsidiaries of any of the corporations or companies specified in (a) to (f) and any subsidiary of the State Bank of India or any nationalised bank set up for providing merchant banking services, buying and selling securities and other similar activities.

<sup>20</sup>[(h) any bank included in the Second Schedule to the Reserve Bank of India Act, 1934 (2 of 1934);

(i) the Export Import Bank of India, established under the Export Import Bank of India Act, 1981 (28 of 1981);

(j) the National Bank for Agriculture and Rural Development, established under the National Bank for Agriculture and Rural Development Act, 1981 (61 of 1981); and

(k) the National Housing Bank, established under the National Housing Bank Act, 1987 (53 of 1987).]

<sup>21</sup>[(l) Central Board of Trustees, Employees' Provident Fund, established under the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (19 of 1952);

(m) any pension fund registered or appointed or regulated by the Pension Fund Regulatory and Development Authority under the Pension Fund Regulatory And Development Authority Act, 2013 (23 of 2013); and

(n) any Standalone Primary Dealers authorised by the Reserve Bank of India constituted under the Reserve Bank of India Act, 1934 (2 of 1934)]”

Note- Footnotes for the above amended portion are as under-

<sup>18</sup> Inserted by the Securities Contracts (Regulation) (Amendment) Rules, 2003, w.e.f. 28.08.2003.

<sup>18</sup> Substituted for" the Life Insurance Corporation of India, established under the Life Insurance Corporation Act, 1956 (31 of 1956)" by Securities Contracts (Regulation) (Amendment) Rules, 2014, w.e.f.16.1.2014

<sup>19</sup> Omitted, by Securities Contracts (Regulation) (Amendment) Rules, 2014. w.e.f.16.1.2014. Prior to its omission, item (d) read as under:

"the General Insurance Corporation of India constituted under the General Insurance Corporation (Nationalisation) Act, 1972 (57 of 1972)"

<sup>20</sup> Inserted, *ibid*.

<sup>21</sup> Inserted by Securities Contracts (Regulation) (Amendment) Rules, 2014. w.e.f.16.1.2014

<sup>19</sup> Omitted by GSR 749 (E), dated 12.10.1994

<sup>20</sup> Substituted by GSR 790(E), dated 07.11.1994

- company which had been a member of the stock exchange and had been declared defaulter or expelled by the stock exchange; and
- (v) not less than two directors of the company are persons who possess a minimum two years' experience:
    - (a) in dealing in securities; or
    - (b) as portfolio managers; or
    - (c) as investment consultants.
- (5) Where any member of a stock exchange is a firm, the provisions of sub-rules (1), (3) and (4), shall, so far as they can, apply to the admission or continuation of any partner in such firm.
- <sup>21</sup>[(6) A limited liability partnership as defined in the Limited Liability Partnership Act, 2008 (6 of 2009), shall also be eligible to be elected its a member of a stock exchange if
- (i) such "limited liability partnership" undertakes to comply with such financial requirements and norms as may be provided by the Securities and Exchange Board of India for registration of such limited liability partnerships under sub-section (1) of section 12 of the Securities and Exchange Board of India Act, 1992 (15 of 1992);
  - (ii) the designate partners of the 'limited liability partnership' are not disqualified from being members of a stock exchange under sub-rule (1) [except clause (b) and (f) thereof] or sub-rule (3) [except clause (a) and clause (f) thereof and the designated partners of the 'limited liability partnership' had not held the offices of Directors in any company or body corporate or partner in any firm or 'limited liability partnership', which had been a member of the stock exchange and had been declared defaulter or expelled by the stock exchange; and
  - (iii) not less than two designated partners of the 'limited liability partnership' are persons who possess a minimum experience of two years: -
    - (a) in dealing in securities; or
    - (b) as portfolio managers; or
    - (c) as investment consultants.]
- <sup>22</sup>[(7) Any provident fund represented by its trustees, of an exempted establishment under the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (19 of 1952), shall also be eligible to be elected as a member of a stock exchange.]

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<sup>21</sup> Inserted by the Securities Contracts (Regulation) Amendment Rules, 2013. w.e.f. 24.10.2013

<sup>22</sup> Sub-rule (7) inserted by the Securities Contracts (Regulation) (Second Amendment) Rules, 2014, w.e.f. 22-9-2014.

<sup>23</sup>[(8) Where the Securities and Exchange Board of India makes a recommendation, the governing body of a stock exchange shall, admit as member the following corporations, bodies corporate, companies or institutions, namely: -

(a) the Industrial Finance Corporation, established under the Industrial Finance Corporation Act, 1948 (15 of 1948);

(b) the Industrial Development Bank of India, established under the Industrial Development Bank Act, 1964 (18 of 1964);

(c) any insurance company granted registration by the Insurance Regulatory Development Authority under the Insurance Act, 1938 (4 of 1938);

(d) the Unit Trust of India, established under the Unit Trust of India Act, 1963 (52 of 1963);

(e) the Industrial Credit and Investment Corporation of India, a company registered under the Companies Act, 1956 (1 of 1956);

(f) the subsidiaries of any of the corporations or companies specified in clauses (a) to (e) and any subsidiary of the State Bank of India or any nationalised bank set up for providing merchant banking services, buying and selling securities and other similar activities;

(g) any bank included in the Second Schedule to the Reserve Bank of India Act, 1934 (2 of 1934);

(h) the Export Import Bank of India, established under the Export Import Bank of India Act, 1981 (28 of 1981);

(i) the National Bank for Agriculture and Rural Development, established under the National Bank for Agriculture and Rural Development Act, 1981 (61 of 1981);

(j) the National Housing Bank, established under the National Housing Bank Act, 1987 (53 of 1987);

(k) Central Board of Trustees, Employees' Provident Fund, established under the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (19 of 1952);

(l) any pension fund registered or appointed or regulated by the Pension Fund Regulatory and Development Authority under the Pension Fund Regulatory and Development Authority Act, 2013 (23 of 2013);

(m) any Standalone Primary Dealers authorised by the Reserve Bank of India constituted under the Reserve Bank of India Act, 1934 (2 of 1934); and

(n) Category I and Category II foreign portfolio investors registered under the Securities and Exchange Board of India (Foreign Portfolio Investors) Regulations, 2014:

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<sup>23</sup> Inserted by the Securities Contracts (Regulation) (Amendment) Rules, 2017, w.e.f. 20.03.2017.

Provided that such foreign portfolio investors shall engage only in proprietary trades in such class of securities as may be specifically permitted for them by the Securities and Exchange Board of India.]

**Contracts between members of recognised stock exchange.**

**9.** All contracts between the members of a recognised stock exchange shall be confirmed in writing and shall be enforced in accordance with the rules and bye-laws of the stock exchange of which they are members.

**<sup>24</sup>[Nominees of the Securities and Exchange Board of India] on the governing bodies of recognised stock exchanges.**

**10.** The <sup>25</sup>[Securities and Exchange Board of India] may nominate one or more persons not exceeding three in number, as member or members of the governing body of every recognised stock exchange. Such member or members shall enjoy the same status and powers as other members of the governing body.

**Obligation of the governing body to take disciplinary action against a member if so directed by the <sup>26</sup>[Securities and Exchange Board of India].**

**11.** After receiving the report of the result of an enquiry made under clause (b) of sub-section (3) of section 6 of the Act, the <sup>21</sup> [Securities and Exchange Board of India] may take such action as they deem proper and, in particular, may direct the governing body of the stock exchange to take such disciplinary action against the offending member, including fine, expulsion, suspension or any other penalty of a like nature not involving the payment of money, as may be specified by the <sup>21</sup>[Securities and Exchange Board of India]; notwithstanding anything to the contrary contained in the rules or bye-laws of the stock exchange concerned, the governing body shall give effect to the directions of the <sup>21</sup>[Securities and Exchange Board of India] in this behalf and shall not in any manner commute, revoke or modify the action taken in pursuance of such directions, without the prior approval of the <sup>21</sup>[Securities and Exchange Board of India]. The <sup>21</sup>[Securities and Exchange Board of India] may, however, either of its own motion or on the representation of the member concerned, modify or withdraw its direction to the governing body.

**Audit of accounts of members.**

**12.** Every member shall get his accounts audited by a chartered accountant whenever such audit is required by the <sup>21</sup>[Securities and Exchange Board of India].

**Withdrawal of recognition.**

**13.** The written notice referred to in section 5 of the Act shall be in Form C.

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<sup>24</sup> Substituted by F. No. 1/37/SE/94, dated 26.10.1994.

<sup>25</sup> Ibid.

<sup>26</sup> Substituted for “Central Government” by the Securities Contracts (Regulation) (Amendment) Rules, 1996, w.e.f. 23.12.1996.



**Books of account and other documents to be maintained and preserved by every recognised stock exchange.**

**14.** Every recognised stock exchange shall maintain and preserve the following books of account and documents for a period of five years:

- (1) Minute books of the meetings of—
  - (a) members;
  - (b) governing body;
  - (c) any standing committee or committees of the governing body or of the general body of members.
- (2) Register of members showing their full names and addresses. Where any member of the stock exchange is a firm, full names and addresses of all partners shall be shown.
- (3) Register of authorised clerks.
- (4) Register of remisiers of authorised assistants.
- (5) Record of security deposits.
- (6) Margin deposits book.
- (7) Ledgers.
- (8) Journals.
- (9) Cash book.
- (10) Bank pass-book.

**Books of account and other documents to be maintained and preserved by every member of a recognised stock exchange.**

**15.** (1) Every member of a recognised stock exchange shall maintain and preserve the following books of account and documents for a period of five years :

- (a) Register of transactions (*Sauda* book).
  - (b) Clients' ledger.
  - (c) General ledger.
  - (d) Journals.
  - (e) Cash book.
  - (f) Bank pass-book.
  - (g) Documents register showing full particulars of shares and securities received and delivered.
- (2) Every member of a recognised stock exchange shall maintain and preserve the following documents for a period of two years:
- (a) Member's contract books showing details of all contracts entered into by him with other members of the same exchange or counterfoils or duplicates of memos of confirmation issued to such other members.
  - (b) Counterfoils or duplicates of contract notes issued to clients.

- (c) Written consent of clients in respect of contracts entered into as principals.

**Manner of inquiry in relation to the affairs of the governing body of a recognised stock exchange or the affairs of any member of the stock exchange in relation to the stock exchange.**

**16.** (1)(a) The person or persons appointed by the <sup>27</sup>[Securities and Exchange Board of India] to make an inquiry under clause (b) of sub-section (3) of section 6 of the Act shall hereafter in this rule be referred to as the 'inquiring authority';

(b) where the inquiring authority consists of two or more persons, one of them shall be appointed as the chairman or senior member thereof;

(c) the inquiring authority shall hand over a statement of issues to be inquired into to the governing body or the member concerned, as the case may be, who will be given a reasonable opportunity to state their or his side of the case;

(d) if any witness is called for examination, an opportunity shall be provided to the governing body or the member whose affairs are being inquired into, as the case may be, to cross-examine such witness;

(e) where the inquiring authority consists of more than one person, the views of the majority shall be deemed to represent the findings of such authority and, in the event of an equality of votes, the chairman or senior member shall have a casting vote;

(f) the inquiring authority shall submit its report in writing to the <sup>22</sup>[Securities and Exchange Board of India] within the period specified in the order of appointment;

(g) temporary absence from any hearing or hearings of any member of the inquiring authority shall not vitiate its proceedings.

(2) Where the <sup>22</sup>[Securities and Exchange Board of India] has directed the governing body of a stock exchange to make an inquiry under clause (b) of sub-section (3) of section 6 of the Act, the governing body concerned shall appoint one or more members thereof to make the inquiry and the provisions of sub-rule (1) shall apply *mutatis mutandis* to such inquiry.

**Submission of annual report.**

**17.** (1) Every recognised stock exchange shall before the 31st day of January in each year or within such extended time as the <sup>28</sup>[Securities and Exchange Board of India] may, from time to time, allow, furnish the <sup>23</sup>[Securities and Exchange Board of India] annually with a report about its activities during the preceding calendar year, which shall *inter alia* contain detailed information about the following matters :

(a) changes in rules and bye-laws, if any;

(b) changes in the composition of the governing body;

(c) any new sub-committees set up and changes in the composition of existing ones;

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<sup>27</sup> Substituted for "Central Government" by the Securities Contracts (Regulation) (Amendment) Rules, 1996, w.e.f. 23.12.1996

<sup>28</sup> Ibid.

- (d) admissions, re-admissions, deaths or resignations of members;
- (e) disciplinary action against members;
- (f) arbitration of disputes (nature and number) between members and non-members;
- (g) defaults;
- (h) action taken to combat any emergency in trade;
- (i) securities listed and de-listed; and
- (j) securities brought on or removed from the forward list.

(2) Every recognised stock exchange shall within one month of the date of the holding of its annual general meeting, furnish the <sup>29</sup>[Securities and Exchange Board of India] with a copy of its audited balance-sheet and profit and loss account for its preceding financial year.

#### **Submission of periodical returns.**

**17A.** Every recognised stock exchange shall furnish the <sup>24</sup>[Securities and Exchange Board of India] periodical returns relating to—

- (i) the official rates for the securities enlisted thereon;
- (ii) the number of shares delivered through the clearing house;
- (iii) the making-up prices;
- (iv) the clearing house programmes;
- (v) the number of securities listed and de-listed during the previous three months;
- (vi) the number of securities brought on or removed from the forward list during the previous three months; and
- (vii) any other matter as may be specified by the <sup>24</sup>[Securities and Exchange Board of India].

#### **Manner of publication of bye-laws for criticism.**

**18.** The bye-laws to be made, amended or revised under the Act shall be published for criticism in accordance with the provisions of section 23 of the General Clauses Act, 1897 both in the Gazette of India and Official Gazette of the State in which the principal office of the recognised stock exchange is situate.

#### **Requirements with respect to the listing of securities on a recognised stock exchange.**

**19. (1)** A public company as defined under the Companies Act, 1956, desirous of getting its securities listed on a recognised stock exchange, shall apply for the purpose to the stock exchange and forward along with its application the following documents and particulars :

- (a) Memorandum and articles of association and, in the case of a debenture issue, a copy of the trust deed.

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<sup>29</sup> Ibid.

- (b) Copies of all prospectuses or statements in lieu of prospectuses issued by the company at any time.
- (c) Copies of offers for sale and circulars or advertisements offering any securities for subscription or sale during the last five years.
- (d) Copies of balance-sheets and audited accounts for the last five years, or in the case of new companies, for such shorter period for which accounts have been made up.
- (e) A statement showing—
  - (i) dividends and cash bonuses, if any, paid during the last ten years (or such shorter period as the company has been in existence, whether as a private or public company),
  - (ii) dividends or interest in arrears, if any.
- (f) Certified copies of agreements or other documents relating to arrangements with or between :—
  - (i) vendors and/or promoters,
  - (ii) underwriters and sub-underwriters,
  - (iii) brokers and sub-brokers.
- (g) Certified copies of agreements with—
  - (i) managing agents and secretaries and treasurers,
  - (ii) selling agents,
  - (iii) managing directors and technical directors,
  - (iv) general manager, sales manager, manager or secretary.
- (h) Certified copy of every letter, report, balance-sheet, valuation contract, court order or other document, part of which is reproduced or referred to in any prospectus, offer for sale, circular or advertisement offering securities for subscription or sale, during the last five years.
- (i) A statement containing particulars of the dates of, and parties to all material contracts, agreements (including agreements for technical advice and collaboration), concessions and similar other documents (except those entered into in the ordinary course of business carried on or intended to be carried on by the company) together with a brief description of the terms, subject-matter and general nature of the documents.
- (j) A brief history of the company since its incorporation giving details of its activities including any reorganisation, reconstruction or amalgamation, changes in its capital structure, (authorised, issued and subscribed) and debenture borrowings, if any.
- (k) Particulars of shares and debentures issued—(i) for consideration other than cash, whether in whole or part, (ii) at a premium or discount, or (iii) in pursuance of an option.
- (l) A statement containing particulars of any commission, brokerage, discount or other special terms including an option for the issue of any kind of the securities granted to any person.
- (m) Certified copies of—

- <sup>30</sup>[(i) acknowledgement card or the receipt of filing offer document with the Securities and Exchange Board of India;]
- (ii) agreements, if any, with the Industrial Finance Corporation, Industrial Credit and Investment Corporation and similar bodies.
- (n) Particulars of shares forfeited.
- (o) A list of highest ten holders of each class or kind of securities of the company as on the date of application along with particulars as to the number of shares or debentures held by and the address of each such holder.
- (p) Particulars of shares or debentures for which permission to deal is applied for :  
 Provided that a recognised stock exchange may either generally by its bye-laws or in any particular case call for such further particulars or documents as it deems proper.
- (2) Apart from complying with such other terms and conditions as may be laid down by a recognised stock exchange, an applicant company shall satisfy the stock exchange that :
- (a) Its articles of association provide for the following among others—
- (i) that the company shall use a common form of transfer,
  - (ii) that the fully paid shares will be free from all lien, while in the case of partly paid shares, the company's lien, if any, will be restricted to moneys called or payable at a fixed time in respect of such shares,
  - (iii) that any amount paid-up in advance of calls on any share may carry interest but shall not entitle the holder of the share to participate in respect thereof, in a dividend subsequently declared,
  - (iv) there will be no forfeiture of unclaimed dividends before the claim becomes barred by law,
  - (v) that option or right to call of shares shall not be given to any person except with the sanction of the company in general meeting :  
 Provided that a recognised stock exchange may provisionally admit to dealings the securities of a company which undertakes to amend its articles of association at its next general meeting so as to fulfil the foregoing requirements and agrees to act in the meantime strictly in accordance with the provisions of this clause.
- <sup>31</sup>[(b) <sup>32</sup>[The minimum offer and allotment to public in terms of an offer document shall be-]

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<sup>30</sup> Substituted by the Securities Contracts (Regulation) (Amendment) Rules, 1996, w.e.f. 23.12.1996. Prior to its substitution, sub-clause (i), read as under:

“(i) letters of consent of the Controller of Capital Issues.”

<sup>31</sup> Clause (b) substituted by the Securities Contracts (Regulation) Third Amendment Rules, 2014, w.e.f. 19-11-2014. Prior to its substitution, the said clause, as amended by the Amendment Rules, 2001, w.e.f. 1-6-2001; the Securities Contracts (Amendment) Rules, 2010, w.e.f. 4-6-2010 and the Securities Contracts (Regulation) (Second Amendment) Rules, 2010, w.e.f. 9-8-2010, read as under :

“(b)(i) At least twenty five per cent of each class or kind of equity shares or debentures convertible into equity shares issued by the company was offered and allotted to public in terms of an offer document; or

- (i) at least twenty five per cent of each class or kind of equity shares or debenture convertible into equity shares issued by the company, if the post issue capital of the company calculated at offer price is less than or equal to one thousand six hundred crore rupees;
- (ii) at least such percentage of each class or kind of equity shares or debentures convertible into equity shares issued by the company equivalent to the value of four hundred crore rupees, if the post issue capital of the company calculated at offer price is more than one thousand six hundred crore rupees but less than or equal to four thousand crore rupees;
- (iii) at least ten per cent of each class or kind of equity shares or debentures convertible into equity shares issued by the company, if the post issue capital of the company calculated at offer price is above four thousand crore rupees<sup>33</sup>[but less than or equal to one lakh crore rupees]:

<sup>34</sup>[(iv)

at least such percentage of each class or kind of equity shares or debentures convertible into equity shares issued by the company equivalent to the value of five thousand crore rupees and at least five per cent of each such class or kind of equity shares or debenture convertible into equity shares issued by the company, if the post issue capital of the company calculated at offer price is above one lakh crore rupees:

Provided that the company referred to in this sub-clause (iv) shall increase its public shareholding to at least ten per cent within a period of two years and at least twenty-five per cent. within a period of five years, from the date of listing of the securities, in the manner specified by the Securities and Exchange Board of India;]

Provided that the company referred to in sub-clause (ii) or sub-clause (iii), shall increase its public shareholding to at least twenty five per cent within a period of three years from the date of listing of the securities, in the manner specified by the Securities and Exchange Board of India:

Provided further that this clause shall not apply to a company whose draft offer document is pending with the Securities and Exchange Board of India on or before the commencement of the Securities Contracts (Regulation) Third Amendment Rules, 2014, if it satisfies the conditions prescribed in

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(ii) At least ten per cent of each class or kind of equity shares or debentures convertible into equity shares issued by the company was offered and allotted to public in terms of an offer document if the post issue capital of the company calculated at offer price is more than four thousand crore rupees:

**Provided** that the requirement of post issue capital being more than four thousand crore rupees shall not apply to a company whose draft offer document is pending with the Securities and Exchange Board of India on or before the commencement of the Securities Contracts (Regulation) (Amendment) Rules, 2010, if it satisfies the conditions prescribed in clause (b) of sub-rule (2) of rule 19 of the Securities Contracts (Regulation) Rules, 1957 as existed prior to the date of such commencement :

**Provided further** that the company, referred to in sub-clause (ii), shall increase its public shareholding to at least twenty five per cent, within a period of three years from the date of listing of the securities, in the manner specified by the Securities and Exchange Board of India."

<sup>32</sup> Inserted by the Securities Contracts (Regulation) (Amendment) Rules, 2015, w.e.f. 25.02.2015.

<sup>33</sup> Inserted by the Securities Contracts (Regulation) (Amendment) Rules, 2021, w.e.f. 18.06.2021.

<sup>34</sup> Inserted by the Securities Contracts (Regulation) (Amendment) Rules, 2021, w.e.f. 18.06.2021.

clause (b) of sub-rule (2) of rule 19 of the Securities Contracts (Regulation) Rules, 1956 as existed prior to the date of such commencement.]

<sup>35</sup>[\*\*\*]

<sup>36</sup>[Provided also that the applicant company <sup>37</sup>[referred to in clause (b)], who has issued equity shares having superior voting rights to its promoters or founders and is seeking listing of its ordinary shares for offering to the public under this rule and the regulations made by the Securities and Exchange Board of India in this regard, shall mandatorily list its equity shares having superior voting rights at the same recognized stock exchange along with the ordinary shares being offered to the public;]

(c) <sup>38</sup>[\*\*\*]

(3) A company applying for listing shall, as a condition precedent, undertake *inter alia*—

- (a) (i) that letters of allotment will be issued simultaneously and that, in the event of its being impossible to issue letters of regret at the same time, a notice to that effect will be inserted in the press so that it will appear on the morning after the letters of allotment have been posted,
  - (ii) that letters of right will be issued simultaneously,
  - (iii) that letters of allotment, acceptance or rights will be serially numbered, printed on good quality paper and examined and signed by a responsible officer of the company and that whenever possible, they will contain the distinctive numbers of the securities to which they relate,
  - (iv) that letters of allotment and renounceable letters of right will contain a proviso for splitting and that, when so required by the exchange, the form of renunciation will be printed on the back of or attached to the letters of allotment and letters of right,
  - (v) that letters of allotment and letters of right will state how the next payment of interest or dividend on the securities will be calculated,
- (b) to issue, when so required, receipts for all securities deposited with it whether for registration, sub-division, exchange or for other purposes; and not to charge any fees for registration of transfers, for sub-division and consolidation of certificates and for sub-division of letters of allotment, renounceable letters of right, and split,

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<sup>35</sup> Omitted, *ibid.* Prior to its omission, third proviso, read as under:

“Provided further that the company may increase its public shareholding by less than five per cent in a year if such increase brings its public shareholding to the level of twenty five per cent in that year.”

<sup>36</sup> Inserted by the Securities Contracts (Regulation) (Amendment) Rules, 2020, w.e.f. 19.03.2020.

<sup>37</sup> Inserted by the Securities Contracts (Regulation) (Amendment) Rules, 2021, w.e.f. 18.06.2021.

<sup>38</sup> Clause (c) omitted by the Securities Contracts (Regulation) Third Amendment Rules, 2014, w.e.f. 19-11-2014. Prior to its omission, the said clause, as inserted by the Securities Contracts (Regulation) (Second Amendment) Rules, 2010, w.e.f. 9-8-2010, read as under :

"(c) Notwithstanding anything contained in clause (b), a public sector company, shall offer and allot at least ten per cent of each class or kind of equity shares or debentures convertible into equity shares to public in terms of an offer document."

consolidation, renewal and transfer receipts into denominations of the market unit of trading;

- (bb) to issue, when so required, consolidation and renewal certificates in denominations of the market unit of trading to split certificates, letters of allotment, letters of right, and transfer, renewal, consolidation and split receipts into smaller units, to split call notices, issue duplicates thereof and not require any discharge on call receipts and to accept the discharge of members of stock exchange on split, consolidation and renewal receipts as good and sufficient without insisting on the discharge of the registered holders;
- (c) when documents are lodged for sub-division or consolidation or renewal through the clearing house of the exchange :
  - (i) to accept the discharge of an official of the stock exchange clearing house on the company's split receipts and consolidation receipts and renewal receipts as good and sufficient discharge without insisting on the discharge of the registered holders, and
  - (ii) to verify when the company is unable to issue certificates or split receipt or consolidation receipts or renewal receipts immediately on lodgement whether the discharge of the registered holders, on the documents lodged for sub-division or consolidation or renewal and their signatures on the relative transfers are in order;
- (d) on production of the necessary documents by shareholders or by members of the exchange, to make on transfers an endorsement to the effect that the power of attorney or probate or letters of administration or death certificate or certificate of the Controller of Estate Duty or similar other document has been duly exhibited to and registered by the company;
- (e) to issue certificates in respect of shares or debentures lodged for transfer within a period of one month of the date of lodgement of transfer and to issue balance certificates within the same period where the transfer is accompanied by a larger certificate;
- (f) to advise the stock exchange of the date of the board meeting at which the declaration or recommendation of a dividend or the issue of right or bonus share will be considered;
- (g) to recommend or declare all dividends and/or cash bonuses at least five days before the commencement of the closure of its transfer books or the record date fixed for the purpose and to advise the stock exchange in writing of all dividends and/or cash bonuses recommended or declared immediately after a meeting of the board of the company has been held to finalise the same;
- (h) to notify the stock exchange of any material change in the general character or nature of the company's business;
- (i) to notify the stock exchange of any change—
  - (i) in the company's directorate by death, resignation, removal or otherwise,
  - (ii) of managing director, managing agent or secretaries and treasurers,
  - (iii) of auditors appointed to audit the books and account of the company;



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

- (s) to intimate the stock exchange any other information necessary to enable the shareholders to apprise the position of the company and to avoid the establishment of a false market in the shares of the company;
- (t) that in the event of the application for listing being granted, such listing shall be subject to the rules and bye-laws of the exchange in force from time to time and that the company will comply within a reasonable time, with such further listing requirements as may be promulgated by the exchange as a general condition for new listings.

<sup>39</sup>[(4) An application for listing shall be necessary in respect of the following:

- (a) all new issues of any class or kind of securities of a company to be offered to the public;
- (b) all further issues of any class or kind of securities of a company if such class or kind of securities of the company are already listed on a recognised stock exchange.]

(5) A recognised stock exchange may suspend or withdraw admission to dealings in the securities of a company or body corporate either for a breach of or non-compliance with, any of the conditions of admission to dealings or for any other reason, to be recorded in writing, which in the opinion of the stock exchange justifies such action:

Provided, however, that no such action shall be taken by a stock exchange without affording to the company or body corporate concerned a reasonable opportunity by a notice in writing, stating the reasons, to show cause against the proposed action:

<sup>40</sup>[Provided further that where a recognised stock exchange has withdrawn admission to dealings in any security, or where suspension of admission to dealings has continued for a period exceeding three months, the company or body corporate concerned may prefer an appeal to the Securities Appellate Tribunal constituted under section 15K of the Securities and Exchange Board of India Act, 1992 (15 of 1992), and the procedure laid down under the Securities Contracts (Regulation) (Appeal to Securities Appellate Tribunal) Rules, 2000 shall apply to such appeal. The Securities Appellate Tribunal may, after giving the stock exchange an opportunity of being heard, vary or set aside the decision of the stock exchange and its orders shall be carried out by the stock exchange.]

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<sup>39</sup> Substituted by the Securities Contracts (Regulation) (Amendment) Rules, 2010, w.e.f. 04.06.2010. Prior to its substitution, sub-rule (4), read as under:

“(4) A fresh application for listing will be necessary in respect of all new issues desired to be dealt in, provided that, where such new securities are identical in all respects with those already listed, admission to dealings will be granted on the company intimating to the stock exchange particulars of such new issues.

Explanation: Shares are identical in all respects only if—

- (a) they are of the same nominal value and the same amount per share has been called up;
- (b) they are entitled to dividend at the same rate and for the same period, so that at the next ensuing distribution, the dividend payable on each share will amount to exactly the same sum, net and gross; and
- (c) they carry the same rights in all other respects.”

<sup>40</sup> Substituted by the Securities Contracts (Regulation) (Amendment) Rules, 2000, w.e.f. 08.08.2000. Earlier, the second proviso was amended by the Securities Contracts (Regulation) (Amendment) Rules, 1996, w.e.f. 23.12.1996.

<sup>41</sup>[(6) A recognised stock exchange may, either at its own discretion or shall in accordance with the orders of the Securities Appellate Tribunal under sub-rule (5) restore or re-admit to dealings any securities suspended or withdrawn from the list.]

<sup>42</sup>[(6A) Except as otherwise provided in these rules or permitted by the Securities and Exchange Board of India under sub-rule (7), all requirements with respect to listing prescribed by these rules shall, so far as they may be, also apply to a public sector company.]

<sup>43</sup>[\*\*\*]

(7) The <sup>44</sup>[Securities and Exchange Board of India] may, at its own discretion or on the recommendation of a recognised stock exchange, waive or relax the strict enforcement of any or all of the requirements with respect to listing prescribed by these rules.

<sup>45</sup>[(8) Notwithstanding anything contained in this rule, the minimum offer and allotment requirements as prescribed under clause (b) of sub-rule (2) shall not be applicable to the listing of such equity shares having superior voting rights issued to the promoters or founders as the case may be, in cases where the applicant company is seeking listing of its ordinary shares for offering to the public in accordance with the provisions of this rule and the regulations made by the Securities and Exchange Board of India in this regard.]

#### <sup>46</sup>[Continuous Listing Requirement.

**19A.** (1) Every listed company <sup>47</sup>[<sup>48</sup>[\*\*\*]] shall maintain public shareholding of at least twenty five per cent.:

<sup>49</sup>[<sup>50</sup>[ Provided that every listed public sector company which has public shareholding below twenty-five per cent. on the commencement of the Securities Contracts

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<sup>41</sup> Substituted by the Securities Contracts (Regulation) (Amendment), 2000, w.e.f. 08.08.2000. Earlier, sub-rule (6) was amended by the Securities Contracts (Regulation) (Amendment), 1996, w.e.f. 23.12.1996.

<sup>42</sup> Substituted by the Securities Contracts (Regulations) (Second Amendment) Rules, 2010, w.e.f. 09.8.2010. Prior to its substitution, sub-rule (6A) as amended by the Securities Contracts (Regulations)(Amendment) Rules, 2010, w.e.f. 04.06.2010 and GSR 121(E) w.e.f. 09.03.1995, read as under:

“(6A) All the requirements with respect to listing and continuous listing prescribed by these rules, shall so far as they may be, also apply to a body corporate constituted by an Act of Parliament or any State Legislature :”

<sup>43</sup> Omitted by the Securities Contracts (Regulation)(Amendment) Rules, 2010, w.e.f. 04.06.2010. Prior to its omission, proviso, as substituted by the Securities Contracts (Regulation) (Amendment) Rules, 1996, w.e.f. 23.12.1996 and inserted by GSR 291 (E) dated 27.03.1995, read as under:

“Provided that a recognised stock exchange may relax the requirement of offer to public for subscription of atleast twenty-five percent of the each class or kind of securities issued in respect of a body corporate referred to in this sub-rule with the previous approval of the Securities and Exchange Board of India and also subject to such instructions as that Board may issue in this behalf from time to time.”

<sup>44</sup> Substituted for “Central Government” by the Securities Contracts (Regulation) (Amendment), Rules, 1996, w.e.f. 23.12.1996.

<sup>45</sup> Inserted by the Securities Contracts (Regulation) (Amendment) Rules, 2020, w.e.f. 19.03.2020.

<sup>46</sup> Inserted by the Securities Contracts (Regulations) (Amendment) Rules, 2010, w.e.f. 04.06.2010

<sup>47</sup> Omitted by the Securities Contracts (Regulation) (Second Amendment) Rules, 2014, w.e.f. 22.8.2014. Prior to omission, it read as “(other than public sector company)”.

<sup>48</sup> Inserted by the Securities Contracts (Regulations) (Second Amendment) Rules, 2010, w.e.f. 09.08.2010.

<sup>49</sup> Substituted, *ibid*. Prior to substitution, provisos, read as under:

(Regulation) (Second Amendment) Rules, 2018, shall increase its public shareholding to at least twenty-five per cent, within a period of <sup>51</sup>[three years] from the date of such commencement, in the manner specified by the Securities and Exchange Board of India.]

Explanation: For the purposes of this sub-rule, a company whose securities has been listed pursuant to an offer and allotment made to public in terms of <sup>52</sup>[\*\*\*] clause (b) of sub-rule (2) of rule 19, shall maintain minimum twenty five per cent, public shareholding from the date on which the public shareholding in the company reaches the level of twenty five percent in terms of said sub-clause.]

(2) Where the public shareholding in a listed company falls below twenty five per cent. at any time, such company shall bring the public shareholding to twenty five per cent. within a maximum period of twelve months from the date of such fall in the manner specified by the Securities and Exchange Board of India.]

<sup>53</sup>[Provided that every listed public sector company whose public shareholding falls below twenty five per-cent. at any time after the commencement of the Securities Contracts (Regulation) (Second Amendment) Rules, 2018, shall increase its public shareholding to at least twenty five per-cent, within a period of two years from such fall, in the manner specified by the Securities and Exchange Board of India.]

(3) <sup>54</sup>[\*\*\*]

<sup>55</sup>[(4) Where the public shareholding in a listed company falls below twenty-five per cent. in consequence to the Securities Contracts (Regulation) (Amendment) Rules, 2015, such company shall increase its public shareholding to at least twenty-five per cent. in the manner specified by the Securities and Exchange Board of India within a period of three years, as the case may be, from the date of notification of:

(a) the Depository Receipts Scheme, 2014 in cases where the public shareholding falls below twenty five per cent. as a result of such scheme;

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“Provided that any listed company which has public shareholding below twenty five per cent on the commencement of the Securities Contracts (Regulation) (Amendment) Rules, 2010, shall bring the public shareholding to the level of atleast twenty five per cent by increasing its public shareholding to the extent of at least five per cent per annum beginning from the date of such commencement, in the manner specified by the Securities and Exchange Board of India:

Provided further that the company may increase its public shareholding by less than five per cent in a year if such increase brings its public shareholding to the level of twenty five per cent in that year.”

<sup>50</sup> Substituted vide Securities Contract (Regulation)(Second Amendment) Rules, 2018, w.e.f. 03.08.2018, Prior to substitution, proviso, read as under:

“Provided that any listed company which has public shareholding below twenty five per cent, on the commencement of the Securities Contracts (Regulation) (Amendment) Rules, 2014, shall increase its public shareholding to at least twenty five per cent, within a period of <sup>50</sup>[four] years from the date of such commencement, in the manner specified by the Securities and Exchange Board of India.”

<sup>51</sup> Substituted for “two years” by the Securities Contracts (Regulation) (Second Amendment) Rules, 2020, w.e.f. 31.07.2020.

<sup>52</sup> Words "sub-clause (ii) of" omitted by the Securities Contracts (Regulation) Third Amendment Rules, 2014, w.e.f. 19-11-2014.

<sup>53</sup> Inserted vide Securities Contract (Regulation) (Second Amendment) Rules, 2018 w.e.f. 03.08.2018.

<sup>54</sup> Sub-rule (3) omitted by the Securities Contracts (Regulation) (Second Amendment) Rules, 2014, w.e.f. 22-8-2014. Prior to its omission, said sub-rule, as inserted by the Securities Contracts (Regulation) (Second Amendment) Rules, 2010, w.e.f. 9-8-2010, read as under :

"(3) Notwithstanding anything contained in this rule, every listed public sector company shall maintain public shareholding of at least ten per cent :"

<sup>55</sup> Inserted by the Securities Contracts (Regulation) (Amendment) Rules, 2015, w.e.f. 25.02.2015.

(b) the Securities and Exchange Board of India (Share Based Employee Benefits) Regulations, 2014 in cases where the public shareholding falls below twenty-five per cent., as a result of such regulations.]

<sup>56</sup>[(5) Where the public shareholding in a listed company falls below twenty-five per cent, as a result of implementation of the resolution plan approved under section 31 of the Insolvency and Bankruptcy Code, 2016 (31 of 2016), such company shall bring the public shareholding to twenty-five per cent within a maximum period of three years from the date of such fall, in the manner specified by the Securities and Exchange Board of India:

Provided that, if the public shareholding falls below ten per cent, the same shall be increased to at least ten per cent, within a maximum period of <sup>57</sup>[twelve] months from the date of such fall, in the manner specified by the Securities and Exchange Board of India.]

<sup>58</sup>[Provided further that, every listed company shall maintain public shareholding of at least five per cent as a result of implementation of the resolution plan approved under section 31 of the Insolvency and Bankruptcy Code, 2016.]

<sup>59</sup><sup>60</sup>[(6) Notwithstanding anything contained in sub-rules (1) to (5), the Central Government may, in public interest, exempt any listed entity in which the Central Government or State Government or public sector company, either individually or in any combination with other, hold directly or indirectly, majority of the shares or voting rights or control of such listed entity, from any or all of the provisions of this rule.

**Explanation.** -- For the purposes of this rule, the exemption shall continue to be valid for the period specified therein, irrespective of any change in control of such listed entity subsequent to issuance of such exemption.]]

<sup>61</sup>**[Requirements with respect to the listing of units or any other instrument of a Collective Investment Scheme on a recognised stock exchange.**

**20.** (1) A Collective Investment Management Company (CIMC) which is desirous of getting its any collective investment scheme listed on a recognised stock exchange, shall apply for the purpose to the stock exchange and forward along with its application the following documents and particulars:

- (a) Certificate of incorporation, memorandum and articles of association of the company and the copy of the trust deed of the scheme intended to be listed.
- (b) Copies of all prospectuses or statements in lieu of prospectuses issued by the company at any time.

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<sup>56</sup> Inserted by the Securities Contract (Regulation) (Amendment) Rules, 2018, w.e.f. 24.27.2018.

<sup>57</sup> Substituted for “eighteen” by the Securities Contracts (Regulation) (Amendment) Rules, 2021, w.e.f. 18.06.2021.

<sup>58</sup> Inserted by the Securities Contracts (Regulation) (Amendment) Rules, 2021, w.e.f. 18.06.2021.

<sup>59</sup> Inserted by the Securities Contracts (Regulation) (Second Amendment) Rules, 2021, w.e.f. 30.07.2021.

<sup>60</sup> Substituted by the Securities Contracts (Regulation) Amendment Rules, 2022, w.e.f. 02.01.2023. Prior to substitution, sub-rule (6) read as follows:

*“(6) Notwithstanding anything contained in sub-rules (1) to (5), the Central Government may, in the public interest, exempt any listed public sector company from any or all of the provisions of this rule.”*

<sup>61</sup> Inserted by the Securities Contracts (Regulation) (Amendment) Rules, 2000, w.e.f. 08.08.2000

- (c) Copies of offers for sale and circulars or advertisements offering any unit or other instrument for subscription or sale during the last five years, or in the case of a new company, such shorter period during which the company has been in existence.
- (d) Copies of balance sheets and audited accounts for the last five years, or in the case of a new company, for such completed financial year for which accounts have been made up.
- (e) A statement showing,—
  - (i) returns and cash bonuses, if any, paid during the last ten years (or such shorter period as the company has been in existence whether as a private or public company);
  - (ii) returns or interest in arrears, if any.
- (f) Certified copies of agreements or other documents relating to arrangements pertaining to each scheme of the company with or between,—
  - (i) vendors and/or promoters;
  - (ii) underwriters and sub-underwriters;
  - (iii) brokers and sub-brokers.
- (g) Certified copies of agreements pertaining to each scheme of a company with—
  - (i) selling agents and other service providers;
  - (ii) managing directors and technical directors;
  - (iii) general manager, sales manager, manager or secretary.
- (h) Certified copies of every letter, report, balance sheet, valuation contract, court order or other document, part of which is reproduced or referred to in any prospectus, offer for sale, circular or advertisement offering units or any other instruments of the scheme for subscription or sale, during the last five years.
- (i) A statement containing particulars of the dates of, and parties to all material contracts, agreements (including agreements for technical advice and collaboration), concessions and similar other documents (except those entered into in the ordinary course of business carried on or intended to be carried on by the company) together with a brief description of the terms, subject-matter and general nature of the documents pertaining to such scheme.
- (j) A brief history of the Company since its incorporation giving details of its activities including any re-organisation, reconstruction or amalgamation, changes in its capital structure (authorised, issued and subscribed) and debenture borrowings, if any, and the performance of other collective investment schemes of the company.
- (k) Particulars of units of the scheme and/or shares, debentures of the company issued
  - (i) for consideration other than cash, whether in whole or part, (ii) at a premium or discount, or (iii) in pursuance of an option.
- (l) A statement containing particulars of any commission, brokerage, discount or other special terms granted to any person pertaining to such scheme.
- (m) Certified copies of—

- (i) certificate of registration granted by the Securities and Exchange Board of India;
  - (ii) acknowledgement card or the receipt of filing offer document with the Securities and Exchange Board of India;
  - (iii) agreements, if any, with any public financial institution as specified in section 4A of the Companies Act, 1956 (1 of 1956).
- (n) A list of the highest ten holders of units of each scheme of the company as on the date of application along with particulars as to the number of units held by and the address of each such holder.
- (o) Particulars of units of the scheme for which permission to deal is applied for :
- Provided that a recognised stock exchange may either generally by its bye-laws or in any particular case call for such further particulars or documents as it deems proper.
- (2) Apart from complying with such other terms and conditions as may be laid down by a recognised stock exchange, an applicant shall satisfy the stock exchange that :
- (a) Its articles of association provide for the following among others—
- (i) that the company shall use a common form of transfer of units of a particular scheme;
  - (ii) that the fully paid units issued under the scheme will be free from all lien, while in the case of partly paid units the company's lien, if any, will be restricted to moneys called or payable at a fixed time in respect of such units;
  - (iii) that any amount paid-up in advance of calls on any units may carry interest but shall not entitle the holder of the unit to participate in respect thereof, in a return subsequently declared;
  - (iv) there will be no forfeiture of unclaimed returns before the claim becomes barred by law;
  - (v) that option or right to call of units shall not be given to any person except with the sanction of the company in general meeting :

Provided that a recognised stock exchange may provisionally admit to dealings the units of a scheme which undertakes to amend its articles of association at its next general meeting so as to fulfil the foregoing requirements and agrees to act in the meantime strictly in accordance with the provisions of this clause.

- (b) At least twenty-five per cent of the units or any other instrument of a scheme issued by the company was offered to the public for subscription through advertisement in newspapers for a period not less than two days and not more than ninety days, and that applications received in pursuance of such offer were allotted fairly and unconditionally :

Provided that a recognised stock exchange may relax this requirement, with the previous approval of the Securities and Exchange Board of India in respect of a Government company within the meaning of section 617 of the Companies Act, 1956 (1 of 1956) and subject to such instructions as the Securities and Exchange Board of India may issue in this behalf from time to time.

*Explanation.*—Where any part of the units or any other instruments sought to be listed have been or are agreed to be taken up by the Central Government, a State Government,

development or investment agency of a State Government, Industrial Development Bank of India, Industrial Finance Corporation of India, Industrial Credit and Investment Corporation of India Limited, Life Insurance Corporation of India, General Insurance Corporation of India and its subsidiaries, namely, the National Insurance Company Limited, the New India Assurance Company Limited, the Oriental Insurance Company Limited and the United Insurance Company Limited, or Unit Trust of India, the total subscription to the units or any other instrument, whether by one or more of such bodies, shall not form part of the twenty-five per cent of the units or any other instrument to be offered to the public.

(3) A company applying for listing of a scheme shall, as a condition precedent, undertake, *inter alia*,—

- (a)
  - (i) that letters of allotment of units or any other instrument will be issued simultaneously and that, in the event of its being impossible to issue letters of regret at the same time, a notice to that effect will be inserted in the press so that it will appear on the morning after the letters of allotment have been posted;
  - (ii) that letters of right will be issued simultaneously;
  - (iii) that letters of allotment, acceptance or rights will be serially numbered, printed on good quality paper and, examined and signed by a responsible officer of the company and that whenever possible, they will contain the distinctive numbers of the units or any other instrument to which they relate;
  - (iv) that letters of allotment and renounceable letters of right will contain a proviso for splitting and that, when so required by the exchange, the form of renunciation will be printed on the back of or attached to the letters of allotment and letters of right;
  - (v) that letters of allotment and letters of right will state how the next payment of interest or return on the units or any other instrument will be calculated;
- (b) to issue, when so required, receipts for all units and any other instrument deposited with it whether for registration, sub-division, exchange or for other purposes; and not to charge any fees for registration of transfers, for sub-division and consolidation of units and any other instrument and for sub-division of letters of allotment, renounceable letters of right, and split, consolidation, renewal and transfer receipts into denominations of the market unit of trading;
- (c) to issue, when so required, consolidation and renewal units or any other instrument in denominations of the market unit of trading, to split units or any other instrument, letters of allotment, letters of right, and transfer, renewal, consolidation and split receipts into smaller units, to split call notices, issue duplicates thereof and not require any discharge on call receipts and to accept the discharge of members of stock exchange on split, consolidation and renewal receipts as good and sufficient without insisting on the discharge of the registered holders;
- (d) when documents are lodged for sub-division or consolidation or renewal through the clearing house of the exchange :
  - (i) to accept the discharge of an official of the stock exchange clearing house on the company's split receipts and consolidation receipts and renewal receipts



- as good and sufficient discharge without insisting on the discharge of the registered holders; and
- (ii) to verify when the company is unable to issue units or any other instruments or split receipt or consolidation receipts or renewal receipts immediately on lodgement whether the discharge of the registered holders, on the documents lodged for sub-division or consolidation or renewal and their signatures on the relative transfers are in order;
  - (e) on production of the necessary documents by unit holders or by members of the exchange, to make on transfers an endorsement to the effect that the power of attorney or probate or letters of administration or death certificate or similar other document has been duly exhibited to and registered by the company;
  - (f) to issue certificates in respect of units or any other instrument lodged for transfer within a period of one month of the date of lodgement of transfer and to issue balance units or any other instrument within the same period where the transfer is accompanied by a larger unit or any other instrument certificate;
  - (g) to advise the stock exchange of the date of the board meeting at which the declaration or recommendation of a return or the issue or right or bonus units or any other instrument will be considered;
  - (h) to recommend or declare all returns and/or cash bonuses at least five days before the commencement of the closure of its transfer books or the record date fixed for the purpose and to advise the stock exchange in writing of all returns and/or cash bonuses recommended or declared immediately after a meeting of the board of the company has been held to finalise the same;
  - (i) to notify the stock exchange of any change—
    - (i) in the company's directorate by death, resignation, removal or otherwise,
    - (ii) of managing director,
    - (iii) of auditors appointed to audit the books and account of the company;
  - (j) to forward to the stock exchange copies of statutory and annual reports and audited accounts of such scheme as soon as issued, including directors' report;
  - (k) to forward to the stock exchange as soon as they are issued copies of all other notices and circulars sent to the unit/other instrument holders regarding any important development or resolutions passed by the company affecting the performance of the scheme and to file with the stock exchange certified copies of resolutions of the company as soon as such resolutions become effective;
  - (l) to notify the stock exchange prior to intimating the unit/any other instrument holders, of any new issue of units/other instruments whether by way of right, privilege, bonus or otherwise and the manner in which it is proposed to offer or allot the same;
  - (m) to notify the stock exchange in the event of re-issue of any forfeited units/other instruments or the issue of units/other instruments held in reserve for future issue;
  - (n) to notify the stock exchange of any other alteration of unit capital including calls;
  - (o) to close the transfer books only for the purpose of declaration of returns or issue of right or bonus units/any other instruments in the scheme or for such other purposes as the stock exchange may agree and to give notice to the stock exchange as many

days in advance as the exchange may from time to time reasonably prescribe, stating the dates of closure of its transfer books or, when the transfer books are not to be closed, the date fixed for taking a record of its unit/other instrument holders and specifying the purpose or purposes for which the transfer books are to be closed or the record is to be taken; and in the case of a right or bonus issue to so close the transfer books or fix a record date only after the sanctions of the competent authority, subject to which the issue is proposed to be made, have been duly obtained, unless the exchange agrees otherwise;

- (p) to forward to the stock exchange an annual return immediately after the preparation of annual accounts of at least ten principal holders of each class of units/any other instruments of the company along with particulars as to the number of units/any other instrument held by, and address of, each such holder;
- (q) to grant to unit/any other instrument holders of the scheme the right of renunciation in all cases of issue of rights, privileges and benefits and to allow them reasonable time, not being less than four weeks, within which to record, exercise, or renounce such rights, privileges and benefits, and to issue, where necessary, coupons or fractional certificates or provide for the payment of the equivalent of the value of the fractional right in cash unless the company in general meeting or the stock exchange agrees otherwise;
- (r) to promptly notify the stock exchange—
  - (i) of any action which will result in the redemption, cancellation or retirement in whole or in part of any unit/other instrument listed on the exchange;
  - (ii) of the intention to make a drawing of such unit/other instrument intimating at the same time the date of the drawing and the period of the closing of the transfer books (or the date of the striking off the balance) for the drawing;
  - (iii) of the amount of units/other instruments outstanding after any drawing has been made;
- (s) to intimate the stock exchange any other information necessary to enable the unit/any other instrument holders to appraise the position of the scheme and to avoid the establishment of a false market in the units/any other instruments of the company;
- (t) that in the event of the application for listing being granted, such listing shall be subject to the rules and bye-laws of the exchange in force from time to time and that the company will comply within a reasonable time, with such further listing requirements as may be promulgated by the exchange as a general condition for new listings.

(4) A fresh application for listing will be necessary in respect of all new schemes desired to be dealt in :

Provided that, where such new units/other instruments are identical in all respects with those already listed, admission to dealing will be granted on the company intimating to the stock exchange particulars of such new schemes.

*Explanation.*—Units/any other instruments are identical in all respects only if—

- (a) they are issued under the same scheme;
- (b) they are of the same nominal value and the same amount per unit/other instruments has been called up;

- (c) they are entitled to returns at the same rate and for the same period, so that at the next ensuing distribution, the return payable on each unit/other issue will amount to exactly the same sum, net and gross; and
  - (d) they carry the same rights in all other respects.
- (5) A recognised stock exchange may suspend or withdraw admission to dealings in the units/other instruments of a scheme of a company or body corporate either for a breach of or non-compliance with, any of the conditions of admission to dealings or for any other reason, to be recorded in writing, which in the opinion of the stock exchange justifies such action :
- Provided, however, that no such action shall be taken by a stock exchange without affording to the company or body corporate concerned a reasonable opportunity by a notice in writing, stating the reasons, to show cause against the proposed action :
- Provided further that where a recognised stock exchange has withdrawn admission to dealings in any unit/other instrument of a collective investment scheme, or where suspension of admission to dealings has continued for a period exceeding three months, the company or body corporate concerned may prefer an appeal to the Securities Appellate Tribunal constituted under section 15K of the Securities and Exchange Board of India Act, 1992 (15 of 1992), and the procedure laid down under the Securities Contracts (Regulation) (Appeal to Securities Appellate Tribunal) Rules, 2000 shall apply to such appeal. The Securities Appellate Tribunal may, after giving the stock exchange an opportunity of being heard, vary or set aside the decision of the stock exchange and thereupon the orders of the Securities Appellate Tribunal shall be carried out by the stock exchange.
- (6) A recognised stock exchange may, either at its own discretion or shall in accordance with the orders of the Securities Appellate Tribunal under sub-rule (5) restore or readmit to dealings any units/other instruments suspended or withdrawn from the list.
- (7) All the requirements with respect to listing prescribed by these rules, shall, so far as they may be, also apply to a body corporate constituted by an Act of Parliament or any State Legislature :
- Provided that a recognised stock exchange may relax the requirement of offer to the public for subscription of at least twenty-five per cent of the units or any other instrument of a collective investment scheme issued in respect of a body corporate referred to in this sub-rule with the previous approval of the Securities and Exchange Board of India and also subject to such instructions as the Securities and Exchange Board of India may issue in this behalf from time to time.
- (8) The Securities and Exchange Board of India may, at its own discretion or on the recommendation of a recognised stock exchange, waive or relax the strict enforcement of any or all of the requirements with respect of listing prescribed by these rules.]

## <sup>62</sup>[**Delisting of securities.**

**21.** A recognized stock exchange may, without prejudice to any other action that may be taken under the Act or under any other law for the time being in force, delist any

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<sup>62</sup> Inserted by the Securities Contracts (Regulation) (Amendment) Rules, 2008, w.e.f. 10.06.2009

securities listed thereon on any of the following grounds in accordance with the regulations made by the Securities and Exchange Board of India, namely:—

- (a) the company has incurred losses during the preceding three consecutive years and it has negative networth;
- (b) trading in the securities of the company has remained suspended for a period of more than six months;
- (c) the securities of the company have remained infrequently traded during the preceding three years;
- (d) the company or any of its promoters or any of its director has been convicted for failure to comply with any of the provisions of the Act or the Securities and Exchange Board of India Act, 1992 or the Depositories Act, 1996 (22 of 1996) or rules, regulations, agreements made thereunder, as the case may be and awarded a penalty of not less than rupees one crore or imprisonment of not less than three years;
- (e) the addresses of the company or any of its promoter or any of its directors, are not known or false addresses have been furnished or the company has changed its registered office in contravention of the provisions of the Companies Act, 1956 (1 of 1956); or
- (f) shareholding of the company held by the public has come below the minimum level applicable to the company as per the listing agreement under the Act and the company has failed to raise public holding to the required level within the time specified by the recognized stock exchange :

Provided that no securities shall be delisted unless the company concerned has been given a reasonable opportunity of being heard.

(2) If the securities is delisted under clause (1),

- (a) the company, promoter and director of the company shall be jointly and severally liable to purchase the outstanding securities from those holders who wish to sell them at a fair price determined in accordance with regulations made by Securities and Exchange Board of India, under the Act; and
- (b) the said securities shall be delisted from all recognized stock exchanges.

(3) A recognized stock exchange may, on the request of the company, delist any securities listed thereon in accordance with the regulations made under the Act by Securities and Exchange Board of India, subject to the following conditions, namely :—

- (a) the securities of the company have been listed for a minimum period of three years on the recognized stock exchange;
- (b) the delisting of such securities has been approved by the two-third of public shareholders; and
- (c) the company, promoter and/or the director of the company purchase the outstanding securities from those holders who wish to sell them at a price determined in accordance with regulations made by Securities and Exchange Board of India under the Act:

Provided that the condition at (c) may be dispensed with by Securities and Exchange Board of India if the securities remain listed at least on the National Stock Exchange of India Limited or the Bombay Stock Exchange Limited.]

**FORM A**

(See Rules 3 and 7)

**Application for recognition/renewal of recognition of a stock exchange under section 3 of the Securities Contracts (Regulation) Act, 1956**

To

.....  
.....

*Subject:—Application for recognition/renewal of recognition of a stock exchange under section 3 of the Securities Contracts (Regulation) Act, 1956.*

Sir,

Pursuant to the <sup>63</sup>[Securities and Exchange Board of India] Notification No. .... dated ...../Certificate of recognition dated.....We/I on behalf of ..... (name and address of stock exchange) being a stock exchange as defined in section 2 of the Securities Contracts (Regulation) Act, 1956 hereby apply for recognition/renewal of recognition for the purposes of the said Act in respect of contracts in securities.

2. Four copies of the rules, memorandum and articles of association relating in general to the constitution and management of the stock exchange and four copies of the bye-laws for the regulation and control contracts in securities are enclosed.

3. All the necessary information required in the Annexure to this Form is enclosed. Any additional information will be furnished as and when called for by the <sup>64</sup>[Securities and Exchange Board of India].

4. We/I on behalf of the said stock exchange hereby undertake to comply with the requirements of section 4 of the said Act and such other conditions and terms as may be contained in the certificate of recognition or be prescribed or imposed subsequently.

5. Treasury Receipt No. ....dated.....for Rs.....is attached.

Yours faithfully,  
Signature of applicant

**ANNEXURE TO FORM 'A'**

***Part I - General***

1. Name of the applicant stock exchange.
2. Address.
3. Date of establishment.
4. Is your exchange a joint stock company (state whether public or private) registered under the Indian Companies Act or an association for profit or otherwise ? If it is organised on some other basis, this may be stated.
5. Give details of your capital structure and attach three copies of the audited balance sheets and profit and loss account of the Exchange for the preceding three years.

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<sup>63</sup> Substituted for "Central Government" by the Securities Contracts (Regulation) (Amendment) Rules, 1996, w.e.f. 23.12.1996.

<sup>64</sup> Substituted for "Central Government" by the Securities Contracts (Regulation) (Amendment) Rules, 1996, w.e.f. 23.12.1996.

### ***Part II - Membership***

6. State the number of members at the time of application. Also specify how many are inactive.
7. State whether there is any provision, resolution or convention for limiting the number of members and whether in pursuance thereof you have fixed a ceiling on the number of members that you would take.
8. Do you insist on any minimum qualifications and experience before enrolling new members ? If so give details.
9. State the different classes of members, if any, the number thereof and the privileges enjoyed by each class. What is the procedure followed by your exchange for the admission of different classes of new members ?
10. What are the rates of your annual subscription in respect of the different classes of members ?
11. Do you collect any security deposit from your members ? If so, give details and also state the manner in which such deposits are utilised and the rate of interest allowed, if any.
12. Do you collect any admission or entrance fees from your members or from partners of firms who are members ? If so, how much ?
13. Do you insist on your members and partners of firms who are members divesting themselves of other activities either as principal or as employee ?
14. Do your rules permit firms to become members ? If so, is it incumbent on members to seek the approval of the governing body before admitting new partners ? State the conditions, if any, laid down in your rules for the admission of such partners.
15. If your rules do not permit of firms being enrolled as members, do you permit individual members to form a partnership ? State the procedure followed for the recognition of such partnership.
16. Do you permit members to work in partnership with non-members ? If so, how far such non-members subject to the control of the stock exchange ?

### ***Part III - Governing Body***

17. What is the present strength of your governing body ? Give details of the constitution, powers of management, election and tenure of office of members of the governing body, and the manner in which its business is transacted.
18. Are any trade or commercial interest represented on your governing body ? If so, give details of interests represented.
19. Do you associate shareholders of investors associations with the management of your exchange ? If so, state the manner in which it is done.
20. Are there any Government representatives on your governing body ? If so, furnish their names.
21. Do your rules provide for the direct election by members of any other bodies or committees, apart from the governing body ? If so, give details of their constitution, tenure, powers and functions.

22. Do you have any provision for the appointment of standing or *ad hoc* sub-committees of the governing body ? If so, furnish details of the method of their appointment, terms of office, powers and functions.
23. Give the designations, powers and duties of principal office-bearers of your exchange. Are any of these office-bearers in the pay of the stock exchange ? If so, give details as to the mode of their appointment, tenure of office and remuneration.

#### ***Part IV - Trading***

24. Do you have a trading ring ? If not, how do you carry on the business ? Give details.
25. State the different kinds of contracts in use on your exchange *e.g.*, spot, ready and forward. State the period of delivery and payment in each case.
26. Give details of business hours for each type of contract.
27. Give details of the scale of brokerage and other charges, if any, prescribed by your exchange.
28. Do you prescribe standard forms of contract for the use of your members ? Attach three copies of each such contract form.
29. Do you classify your members into brokers and jobbers ? If so, specify the bye-law under which this is done.
30. Do you have a system of registration of remisiers and/or authorised clerks ? If so, give details as to their qualifications, obligations and rights, etc.
31. Do you have any regulations regarding dealings by members on their own account whether in the nature of *Taravani* (day-to-day) or otherwise ?
32. Do you have any provisions for regulating the volume of business done by any individual member other than through a system of margins ? If so, give details.
33. What provisions have you made for periodical settlement of contracts and differences thereunder, the delivery of, and payment for securities and the passing of delivery orders ?
34. Do you have a clearing house for the settlement of contracts ? If so, give details of its organisation and management.
35. If you have clearing house, what returns do the members of your exchange submit regarding the transactions cleared through such clearing house ? Does the exchange ask for any regular returns in respect of transactions settled outside the clearing house ? Submit three copies of forms used in this connection.
36. How do you fix, alter or postpone the dates of settlement ?
37. How do you determine and declare making-up prices ?
38. Do you have any arrangements for making or recording of bargains ?
39. Have you any arrangements for recording and publishing market rates including opening, closing, highest and lowest rates ?
40. What provisions have you made for regulating—(a) the entering into contracts, their performance and rescission, including contracts : (i) between members, (ii) between a member and his constituent, and (iii) between a member and a non-member; (b) the consequences of breach, default or insolvency on the part of members whether acting as buyers, sellers or intermediaries ; and (c) '*havalas*' and other matters relating to conduct of business of members in the exchange ?

41. Do you prescribe margin requirements ? If yes, give details.
42. Do you prescribe maximum and minimum prices for securities ? If so, how and under what conditions.
43. Do you provide any safeguards for the prevention of 'bullsqueezes' and ; 'bear-raids' and for meeting emergencies in trade ? Give details.
44. What are the measures adopted by you to regulate or prohibit advertising or issue of circulars by your members ?
45. What are the disciplinary power with the governing body to enforce due compliance by members of the rules and bye-laws of the exchange and generally to ensure proper standard of business conduct ?
46. Do you require members to supply such information or explanation and to produce such books relating to their business as your governing body may require ?
47. Do you publish any statistics in regard to business done on the exchange including the transactions settled through the clearing house, if maintained ? In particular, have you evolved any machinery for computing the volume of transactions in the different kinds of contracts permitted on your exchange ? Give details.
48. Do you have any bye-laws contravention of which makes a contract void ?

#### ***Part V - Miscellaneous***

49. Do you have any machinery for arbitration of disputes between members and/or between members and their constituents ? Give details.
50. What are the conditions subject to which securities are listed for dealings on your exchange ?
51. What are your requirements for admitting securities to forward-trading ?
52. Do you have the right to prohibit, withdraw or suspend dealings in a listed security ? If so, under what circumstances is this right exercised ?
53. What provisions have you made for the levy and recovery of fees, fines and penalties ?

#### ***FORM B***

(See rules 6 and 7)

#### **<sup>65</sup>[The Securities and Exchange Board of India]**

*New Delhi, the 20.....*

No. ....The <sup>66</sup>[Securities and Exchange Board of India], having considered the application for recognition/renewal of recognition made under section 3 of the Securities Contracts (Regulation) Act, 1956 by..... (name and address of exchange) and being satisfied that it would be in the interest of the trade and also in the public interest so to do, hereby grants, in exercise of the powers conferred by section 4 of the Securities Contracts (Regulation) Act, 1956 recognition to the said exchange under section 4 of the said Act for ..... year/years ending .....20 .....on a

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<sup>65</sup> Substituted for "Government of India, Ministry of Finance" by the Securities Contracts (Regulation) (Amendment) Rules, 1996, w.e.f. 23.12.1996.

<sup>66</sup> Substituted for "Central Government", *ibid*.



permanent basis in respect of contracts in securities subject to the conditions stated herein below or as may be prescribed or imposed hereafter.

Seal of the <sup>67</sup>[Board]

Signature of Officer

**Note:**—Application for renewal of recognition shall be made so as to reach the Central Government not less than three months before the expiry of the period. (This certificate, will also have to be published as a Notification in the Gazette of India and also in the Official Gazette of the State in which principal office of the recognised stock exchange is situate).

<sup>68</sup>[**FORM C**

(See rule 13)

**Notice to show cause against the withdrawal of recognition**

THE SECURITIES AND EXCHANGE BOARD OF INDIA

*Mumbai, the.....*

To

.....  
.....

(name and address of the exchange)

You are hereby called upon to show cause on or before ..... at the office of ..... ( designation of the officer) why the recognition granted to you under the Ministry of Finance/the Securities and Exchange Board of India, Notification No. .... dated ..... and Certificate No. .... dated ..... should not be withdrawn for the reasons given in the annexure to this notice.

By order and in the name of the Securities and Exchange Board of India.

Seal of the Securities and

Exchange Board of India.

**Notification : No. 576, dated 21-2-1957.**

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<sup>67</sup> Substituted for “Ministry”, *ibid.*

<sup>68</sup> Substituted by the Securities Contracts (Regulation) (Amendment) Rules, 1996, w.e.f. 23.12.1996