**SAST REGULATIONS, 2011 – QnA**

1. **What are the threshold limits for acquisition of shares / voting rights, beyond which an obligation to make an open offer is triggered?**

**Ans 1:** (Answer taken from SEBI Q&A platform)

https://www.sebi.gov.in/sebi\_data/faqfiles/sep-2019/1567577569364.pdf

* Acquisition of 25% or more shares or voting rights: An acquirer, who (along with PACs, if any) holds less than 25% shares or voting rights in a target company and agrees to acquire shares or acquires shares which along with his/ PAC’s existing shareholding would entitle him to exercise 25% or more shares or voting rights in a target company, will need to make an open offer before acquiring such additional shares.
* Acquisition of more than 5% shares or voting rights in a financial year: An acquirer who (along with PACs, if any) holds 25% or more but less than the maximum permissible non-public shareholding in a target company, can acquire additional shares in the target company as would entitle him to exercise more than 5% of the voting rights in any financial year ending March 31, only after making an open offer.

(Regulations taken down by me from the Act as possible answers)

**Ans 2:** 3.(1)

No acquirer shall acquire shares or voting rights in a target company which taken together with shares or voting rights, if any, held by him and by persons acting in concert with him in such target company, entitle them to exercise twenty-five per cent or more of the voting rights in such target company unless the acquirer makes a public announcement of an open offer for acquiring shares of such target company in accordance with these regulations.

**Ans 3:** 3 (2)

No acquirer, who together with persons acting in concert with him, has acquired

and holds in accordance with these regulations shares or voting rights in a target company entitling them to exercise twenty-five per cent or more of the voting rights in the target company but less than the maximum permissible non-public shareholding, shall acquire within any financial year additional shares or voting rights in such target company entitling them to exercise more than five per cent of the voting rights, unless the acquirer makes a public announcement of an open offer for acquiring shares of such target company in accordance with these regulations:

Provided that such acquirer shall not be entitled to acquire or enter into any agreement to acquire shares or voting rights exceeding such number of shares as would take the aggregate shareholding pursuant to the acquisition above the maximum permissible non-public shareholding **[5]**

2 (b) ―acquisition : means, directly or indirectly, acquiring or agreeing to

acquire shares or voting rights in, or control over, a target company

2(p)―offer period : means the period between the date of entering into an agreement, formal or informal, to acquire shares, voting rights in, or control over a target company requiring a public announcement, or the date of the public announcement, as the case may be, and the date on which the payment of consideration to shareholders who have accepted the open offer is made, or the date on which open offer is withdrawn, as the case may be

**Ans 4:** (Answer taken from blog.ipleaders- Verified)

https://blog.ipleaders.in/triggering-open-offer-beyond-threshold-limit-sebi-sast-regulations/

**I) Regulation 3 of SEBI (SAST) Regulations, 2011**

It contains provisions regarding the substantial acquisition of shares or voting rights of the Target Company. It provides specific limits beyond which the acquirer(s) is required to come out with an open offer in accordance with the Regulations.

Major thresholds limit as per SEBI (SAST) Regulations, 2011-

* 0%- 25%
* 25%-75%
* 75% and above

**Initial Threshold Limit:**Regulation 3(1) provides that when an acquirer together with PACs intends to acquire shares or voting rights which along with the existing shareholding would entitle him to exercise 25% or more of the voting rights in the target company, in such a case the acquirer is required to make public announcement to acquire the voting rights of Target Company from the shareholders through an open offer.

(The **1st trigger point** is during the acquisition of 25% or more shares of the target company by the acquirer company.)

**Creeping Acquisition Limit:**Regulation 3(2) allows the persons either by themselves or through PAC with them who are holding more than 25% but less than 75% shares or voting rights in the Target Company to acquire further up to 5% shares or voting rights in the financial year ending 31st March. The allowable acquisition of 5% is popularly known as ‘Creeping Acquisition.’

(The **2nd trigger point** is if the acquirer tries to acquire more than 5% of shares in a financial year after the satisfaction of 1st trigger point.)

**Ans 5:** (Answer taken from Mondaq.com- Verified) https://www.mondaq.com/india/shareholders/754950/substantial-acquisition-of-shares-and-take-over-sebi-regulations-2011-overview

As per Article 2 (1) (p) under the SEBI Takeover Regulations 2011, "offer period" means the period between the date of agreement to acquire shares, voting rights or control over the company requiring a public announcement.

As per Article 2 (1) (q) under SEBI, persons acting in concert means, persons who while having a common objective or purpose to acquisition shares or voting rights or control over a company, according to an agreement or understanding, directly or indirectly co-operate for the acquiring of voting rights or shares in, or exercise of control over the target company.

Trigger Point

As per Regulation 3, the initial threshold limit provided for open offer obligations which were 15% of the voting rights within a company has increased to 25%. In addition to this, if a party already holds at least a quarter of the target's voting rights, a mandatory open offer will be triggered if that party acquires more than 5% of the target's voting rights in any financial year.

Modification made on Open Offer Exemptions

SEBI Takeover Regulations, 2011 provides for certain trigger events wherein the Acquirer is required to give an offer to the shareholders of the Company being targeted to provide them with the exit opportunity.

Mandatory Open Offer

The SEBI Takeover Regulations, 2011 provides a threshold for a binding open offer. The Regulations make the provision that whenever an acquirer acquires the shares more than the limit as mentioned in Regulation 3 and 4 of the SEBI Regulations, 2011, then the acquirer id is required for a public announcement of the offer to the shareholders of the target company.

Regulation 3 of the SEBI Takeover Regulations, 2011 provides the following. Shares or voting rights shall not be acquired by a target company which, when taking together shares or voting rights held by them and by persons acting in concert with him in such target company, entitling them to exercise twenty-five percent or more of the voting rights in such target company. The single exception to this is if the acquirer makes a public announcement of an open offer for acquiring shares of such target company following these regulations.

**Q2 .What is a voluntary open offer?**

(**SAST REGULATIONS,2011)**

**Ans 1:** (Answer as taken from SEBI Q&A pool)

https://www.sebi.gov.in/sebi\_data/faqfiles/sep-2019/1567577569364.pdf

A voluntary open offer under Regulation 6, is an offer made by a person who himself or through Persons acting in concert ,if any, holds 25% or more shares or voting rights in the target company but less than the maximum permissible non-public shareholding limit.

**Ans 2:** (Answer as taken from Mondaq.com - Verified)

https://www.mondaq.com/india/shareholders/754950/substantial-acquisition-of-shares-and-take-over-sebi-regulations-2011-overview

Voluntary Open Offer refers to an offer which is given by the acquirer voluntarily without triggering the mandatory open offer obligations. In case of a voluntary open offer, an acquirer along with the persons acting in concert can hold at least 25% or more shares in the target company. The acquirer along with the persons working with them cannot acquire any shares from the target company in the 52 weeks preceding without attracting the obligation to make a public announcement.

(Regulations taken down by me from the Act as possible answers)

**Ans 3:** - 6(2) An acquirer and persons acting in concert with him, who have made a public announcement under this regulation to acquire shares of a target company shall not be entitled to acquire any shares of the target company for a period of six months after completion of the open offer except pursuant to another voluntary open offer:

Provided that such restriction shall not prohibit the acquirer from making a competing offer upon any other person making an open offer for acquiring shares of the target company. **[3]**

**Ans 4:** - 20.

(1) Upon a public announcement of an open offer for acquiring shares of a target

company being made, any person, other than the acquirer who has made such

public announcement, shall be entitled to make a public announcement of an

open offer within fifteen working days of the date of the detailed public statement made by the

acquirer who has made the first public announcement. **[21]**

(3)Notwithstanding anything contained in these regulations, an open offer made within the period referred to in sub-regulation (1) shall not be regarded as a voluntary open offer under regulation 6,and the provisions of these regulations shall apply accordingly. **[2]**

**Q3: What are the restrictions on acquirers making a voluntary open offer?**

**Ans 1:** (Answer as taken from SEBI Q&A pool)

https://www.sebi.gov.in/sebi\_data/faqfiles/sep-2019/1567577569364.pdf

A voluntary offer cannot be made if the acquirer or PACs with him has acquired any shares of the target company in the 52 weeks prior to the voluntary offer. The acquirer is prohibited from acquiring any shares during the offer period other than those acquired in the open offer. The acquirer is also not entitled to acquire any shares for a period of 6 months, after completion of open offer except pursuant to another voluntary open offer. **[7]**

**Ans 2:** (Answer taken from blog.ipleaders- Verified)

https://blog.ipleaders.in/triggering-open-offer-beyond-threshold-limit-sebi-sast-regulations/

**Restrictions:**

The acquirer becomes ineligible to acquire further shares for a period of six months after the completion of Open Offer except by way of:

* Another Voluntary Open Offer;
* Acquisitions by making a competing offer.

**Ans 3:** (Answer as taken from Nishit Desai website - Verified)

http://www.nishithdesai.com/fileadmin/user\_upload/pdfs/Ma%20Lab/Takeover%20Code%20Dissected.pdf

In case of a voluntary offer made by a shareholder holding in excess of 25% of shares or voting rights of the target company, acquirer and PAC cannot acquire any shares of the target company for a period of 6 months after completion of the voluntary open offer except pursuant to another voluntary open offer or competing offer except as specifically permitted under the Takeover Code.

#Queries Testing

1.What is the nature of the non-convertible debt instrument

2. How to get job in SEBI

3. What do you mean by depository participant

4. Should the money be returned to angel investors if the startup fails

5. Did you get your refund in case you haven't allotted any shares in the Chemcon initial public offer

6.What are some unfair practices in the stock market world

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