

**INTERNAL  
&  
CONCURRENT AUDIT  
OF  
DEPOSITORY PARTICIPANTS**



**THE INSTITUTE OF  
Company Secretaries of India**  
**IN PURSUIT OF PROFESSIONAL EXCELLENCE**  
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## FOREWORD

As brokers act as agent of the investor at the Stock Exchanges, a Depository Participant (DP) is the representative (agent) of the investor in the depository system providing the link between the company and investor through the Depository. The Depository Participant maintains securities account balances and intimate the status of holding to the account holder from time to time. A DP is one with whom an investor needs to open an account to deal in shares in electronic form. The main characteristics of a Depository Participant includes customer interface, demat account opening, demat facilitation, facilitation of demat credits to DP account during IPO, rights, bonus and settlement of trade in Stock Exchanges.

SEBI had issued (Depositories and Participants) Regulations, 1996 containing provisions for operations and functioning of depositories, form for application and certificates used and schedule of fees for participants, etc. It also contains provisions for registration of depository and depository participants, rights and obligations of various users and constituents, inspection and procedure for action in case of default.

The two Depository service providers in India, viz., National Securities Depository Ltd. (NSDL) and Central Depository Services (India) Limited (CDSL) have authorised Company Secretaries in Whole-time Practice to undertake internal audit of the operations of depository participants. The Institute had brought out a Handbook on Internal Audit of Operations of Depository Participants to enable members to undertake internal audit in a systematic and efficient manner. Subsequently in 2006, the depositories prescribed for concurrent audit of risk prone areas of DP operations covering account opening and maintenance, issue and execution of instruction slips.

I found this new publication a marked improvement over its earlier version in scope and contents. It contains the practical steps to be followed while conducting internal audit and concurrent audit of depository participants by providing topic wise checklists on various operations of depository participants such as account opening, conversion of physical shares to demat and vice versa, demat transfers, KYC norms etc.

I am sure that this publication would be of immense practical value to practising professionals and corporate executives.

*Date* : April 19, 2012

*Place* : New Delhi

**(Nesar Ahmad)**

*President*

The Institute of Company Secretaries of India

*(iii)*

## PREFACE

Technological advancements and global integration of capital markets led the phasing out of physical form of documents including securities. This ushered in an era of screen based trading, dematerialization of shares and setting up of depositories.

While the Depositories Act, 1996 and SEBI (Depositories and Participants) Regulations, 1996, provide regulatory framework for functioning of depositories in India, National Securities Depository Ltd. (NSDL) and Central Depository Services (India) Limited (CDSL), the two depository service providers have authorized Practising Company Secretaries to undertake Internal and Concurrent Audit of the Operations of Depository Participants (DPs).

The purpose of this audit of depository participants is to assure the management and depositories that the business operations of the participant are conducted in the manner that all the foreseeable risks are addressed to with appropriate internal control mechanism.

The Institute had brought out a Handbook on Internal Audit of Depository participants. Since its publication, there have been changes in regulatory framework for depositories. In this backdrop, the Institute has brought out this publication titled Internal and Concurrent Audit of Depository Participants, covering *inter alia* updated legal position, detailed information with regard to depositories and exhaustive checklist for conducting internal audit and concurrent audit of depository participants.

I wish to place on record my sincere thanks to Chairman and Members of the Capital Markets Committee for expediting the publication of this book. I take this opportunity to express my sincere thanks to M/s. Yogesh Kundnani and Prashant Kokate, Assistant Vice President, CDSL, Pankaj Srivastava, Company Secretary and Ashish Kini, Manager, NSDL for providing valuable inputs for making this book a comprehensive and informative.

I commend the dedicated efforts put in by Ms. Sonia Baijal, Deputy Director, and Mr. Nikhil Aggarwal, Assistant Education Officer, Directorate of Academics and Professional Development for developing the manuscript, incorporating suggestions and finalizing this publication under the guidance of Dr. S K Dixit, Director (Academics) and overall supervision of Mr. Sutanu Sinha, Senior Director (Academics). I appreciate valuable support provided by Ms. Aparna Chauhan and Ms. Nandini Raj Gupta, Assistant Education Officers in the preparation of this book. I also appreciate the efforts of Ms. Anita Gupta, Administrative Officer and Mr. R P Bajaj, Desk Officer for providing technical support in the printing of this publication.

I am confident that members of the Institute both in employment and practice, other professionals and depository participants will find this publication useful and informative.

I will greatly appreciate the constructive views/suggestions from the users for improving the practical usefulness of this publication.

**(N K Jain)**

*Secretary & CEO*

The Institute of Company Secretaries of India

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# **INTERNAL & CONCURRENT AUDIT OF DEPOSITORY PARTICIPANTS**

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## **AN OVERVIEW OF DEPOSITORIES**

### **Introduction & Historical Background**

The system of settlement based on physical delivery of paper certificates was probably adequate in the past when there was just a handful of investors participating in the transactions of the capital market. Even though the number of listed securities and the number of investors had escalated steadily, the system of settlement had not undergone any fundamental change till the establishment of depositories. The clearing and settlement mechanisms had been encumbered by the huge volumes of paperwork related to processing of share certificates.

In the system of trading involving physical shares, all aspects concerning receipt of a security, its delivery, registration and transfer, clearing and settlement, corporate benefits, etc., involved physical movement of scrips among various investors, brokers and market intermediaries. This led to exposure of investors, brokers and other market intermediaries to risk of loss in transit at every stage, apart from loss of liquidity and opportunity losses. Transfer of physical securities had problems of objections, forged certificates, duplicate shares, court injunctions, signature mismatch, etc. These problems added up to size which grossly affects the stock market and more particularly, the investor to a large extent. The voluminous paperwork results in market imperfections lack of transparency, physical losses, manipulations and erosion of liquidity which could otherwise be avoided if paperwork in the stock markets is reduced.

In this scenario, need for setting up of a depository was strongly felt. It was felt that introduction of scripless settlement would improve the efficiency of the markets and eliminate various problems brought about by dealing in physical certificates. The President of India promulgated the Depositories Ordinance in September 1995, paving way for setting up of depositories in the country. The Depositories Act was passed by both the Houses of Parliament in August, 1996. SEBI notified Regulations in order to provide the regulatory framework for the depositories. Depositories give a new dimension and a new scope for conducting transactions in capital market-primary as well as secondary, in a more efficient and effective manner, in a paperless form on an electronic book entry basis. It provides electronic solution to the aforementioned problems.

### **Concept of Depository System**

Depository system essentially aims at eliminating the voluminous and cumbersome paper work involved in the scrip-based system and offers scope for 'paperless' trading through state-of-the-art technology.

It enables conversion of physical securities in electronic form through a process of 'dematerialisation' (also known as 'demat') of share certificates and facilitates share transactions and transfers electronically without involving any share certificate or transfer deed.

It thus alleviates the hardships faced by the investors and also offers option to convert the shares from electronic to physical or paper form through a process of 'rematerialisation' (also known as 'remat').

The investor has the choice to hold securities either in the dematerialised form or physical form. He also has the option to hold securities partly in dematerialised form and partly in physical form, for the same security. The investor can also withdraw his securities in physical form by opting for rematerialisation.

### **Meaning of Depository**

The term "Depository" means a place where something is deposited for safekeeping; a bank in which funds or securities are deposited by others, usually under the terms of a specific depository agreement. Though the terms "depository" and "depository in banking" are not synonymous they have come to be used interchangeably in banking. "Depository" means one who receives a deposit of money, securities, instruments, or other property; a person to whom something is entrusted; a trustee, a person or group entrusted with the preservation or safekeeping of something.

Depository means an organisation where the securities of a shareholder are held in the form of electronic accounts in the same way as a bank holds money. The Depository holds electronic custody of securities and also arranges for transfer of ownership of securities on the settlement dates.

According to section 2(e) of the Depositories Act, 1996,

"Depository means a company formed and registered under the Companies Act, 1956 and which has been granted a certificate of registration under section 12(1A) of the Securities and Exchange Board of India Act, 1992".

As per section 2(10) of the Companies Act, 1956, a company means a company as defined in section 3 of the Act. According to section 3 company means a company formed and registered under the Companies Act, 1956. A depository cannot act as a depository unless it obtains a

certificate of commencement of business from SEBI. All the securities held by a depository shall be dematerialized and shall be in a fungible form. A depository is not a mere custodian of securities but it can be compared to a bank. If an investor wants to utilize the services offered by a depository, the investor has to open an account with the depository through a participant, similar to the opening of an account with any of the bank branches to utilize services of that bank. Registration of the depository is required under SEBI (Depositories and Participants) Regulations, 1996 and is a precondition to the functioning of the depository. Depository and depository participant both are regulated by Securities and Exchange Board of India.

### **Constituents of Depository**

The constituents of a depository are as under –

- Issuer or company
- Issuers' registrar
- Depository participant
- Clearing members
- Clearing House / Clearing corporations
- Investors

Depository interfaces with all the above, directly or indirectly.

### **Depository System**

In a Depository system, securities are held in securities accounts. This is more or less similar to holding funds in bank accounts. Transfer of ownership of securities is done through simple account transfers. This method does away with all the risks and hassles normally associated with the paperwork. According to SEBI (Issue of Capital & Disclosure Requirements) Regulations, 2011, a company can not make public or rights issue or an offer for sale of securities, unless the company enters into an agreement with a depository for dematerialization of securities already issued or proposed to be issued to the public or existing shareholders; and the company gives an option to subscribers / shareholders / investors to receive the security certificates or hold securities in dematerialized form with a depository. Section 68B of the Companies Act, 1956, introduced from 13.12.2000, provides that every listed public company, making initial public offer of any security for a sum of Rs. 10 crore or more, shall issue the same only in dematerialised form.

In the depository system, share certificates belonging to the investors are to be dematerialised and their names are required to be entered in the records of depository as beneficial owners. Consequent to these changes, the investors' names in the companies' register are replaced by the name of depository as the registered owner of the securities. The depository,

however, does not have any voting rights or other economic rights in respect of the shares as a registered owner. The beneficial owner continues to enjoy all the rights and benefits and is subject to all the liabilities in respect of the securities held by a depository. Shares in the depository mode are fungible and cease to have distinctive numbers. The transfer of ownership changes in *the depository is done automatically on the basis of delivery v. payment.*

In the Depository mode, corporate actions such as IPOs, rights, conversions, bonus, mergers/ amalgamations, subdivisions & consolidations are carried out without the movement of papers, saving both cost & time. Information of beneficiary owners is readily available. The issuer gets information on changes in shareholding pattern on a regular basis, which would enable the issuer to efficiently monitor the changes in shareholdings.

There are two Depositories functioning in India, namely the National Securities Depository Limited (NSDL) and the Central Depository Services (India) Limited (CDSL). Under the provisions of the Depositories Act, these Depositories provide various services to investors and other Participants in the capital market, such as, clearing members, stock exchanges, investment institutions, banks and issuing corporates. These include basic facilities like account opening, dematerialisation, rematerialisation, settlement of trades and advanced facilities like pledging, distribution of non-cash corporate actions, distribution of securities to allottees in case of public issues, etc.

The Depository system links the issuing corporates, Depository Participants (DPs), the Depositories and clearing corporation/ clearing house of stock exchanges. This network facilitates holding of securities in the electronic form and effects transfers by means of account transfers.

The clearing corporations/houses of stock exchanges are electronically linked to the Depository in order to facilitate the settlement of the trades done on the stock exchanges for soft securities.

### ***Depository System at a Glance***

Following presentation about depositories reveal all about depositories, its concepts and trading, i.e. models of depositories, Depository functions, Legal linkage, depository participant, Registrars and issuers, dematerialisation, rematerialisation, electronic credit in new issues, settlement of trades, corporate action, issuer concerns —

*Models of Depository – Modes of converting physical securities in to electronic form*

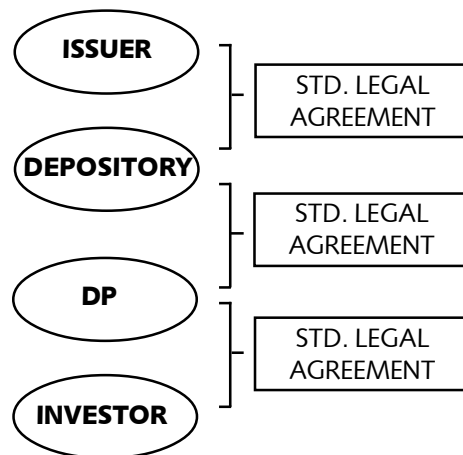
- Immobilisation – Where share certificates are kept in vaults with the depository

- Dematerialisation – No Physical scrip in existence, only electronic records maintained by depository. This type of system is cost effective and simple and is prevalent in India.

#### *Depository Functions*

- Account opening
- Dematerialisation
- Rematerialisation
- Settlement
- Initial Public Offers (IPO's) corporate benefits
- Pledging / Unpledging and Confiscation
- Freeze and Unfreeze.

#### *Legal linkage*



#### *Depository Participant*

- Acts as an Agent of Depository
- Customer interface of Depository
- Functions like branch of a Securities Bank
- Account opening
- Facilitates dematerialisation
- Instant transfer on pay-out
- Instant transfer of balance from one account to other account
- Credits to investor in IPO, rights, bonus
- Settles trades in electronic segment.

#### *Registrar/Issuer*

- Dematerialisation

- Confirmation of Beneficiary Holdings
- Corporate Actions – Rights, Bonus, etc.
- Reconciliation of Depository Holdings
- Rematerialisation.

#### *Demat Account Opening*

- Investor opens account with DP
- Adherence to KYC Norms prescribed by SEBI
- DP - BO Agreement
- Account opening form with supporting documents
- In Person Verification - Individual category accounts
- Data entry in the depository system
- Confirmation to the investor
- Subsequent account maintenance / Modification
- Account closure.

#### *Dematerialisation*

- Fills Dematerialisation Request Form (DRF) for registered shares
- Investor lodges DRF and certificates with DP
- DP intimates the Depository Electronically
- Depository intimates Registrar/Issuer Electronically
- DP sends certificates and DRF to Registrar/Issuer
- Registrar/Issuer confirms demat to Depository
- Depository credits investor a/c.

#### *Rematerialisation*

- Client submits Rematerialisation Request Form (RRF) to DP
- DP intimates Depository
- Depository intimates the Registrar/Issuer Electronically
- DP sends RRF to the Registrar/Issuer Electronically
- Registrar/Issuer prints certificates and sends to Investor
- Lock-in should be retained
- Registrar/Issuer confirms remat to Depository
- Investor's account with Depository debited.

#### *Electronic Credit in New Issues*

- Investor opens account with Depository through DP
- Submits application with option to hold securities in depository giving DP-Id and Client-Id

- Registrar verifies details of demat account with depository records
- Registrar uploads list of allottees to Depository
- Depository credits allottee's account with DP
- Refunds sent by Registrar as usual where securities are not allocated.

#### *Settlement of Trades*

- Trading takes place at stock exchange platform
- Trading Member to have Clearing Account with DP
- Settlement as per Settlement Calendar of Stock Exchange
- On specified time, depositories carries out pay-in of securities through which securities are transferred from clearing member accounts to clearing corporation / house of stock exchange and in turn after due processing clearing corporation / house of stock exchange provides pay out of securities to clearing member accounts.

#### *Corporate Actions*

- Issuer obtains holding report from depository as of record date or book closure dates and based on the holding report
- Dividends/cash benefits – these benefits are directly forwarded to the investors by the company or its registrar and transfer agent.
- Non-cash benefits, viz. Bonus, Rights Issue, etc. – these benefits are electronically credited to the beneficial owner's account through Depository.

#### *Issuer Concerns*

- Safety of investors
- Only institutions to be DPs
- Adequate capitalization
- Statutory indemnity
- Built in system controls, audit trails, reconciliation
- Back-ups, disaster recovery
- Compliance procedures
- Status of beneficial owner – deemed member under Companies Act.

### **Legal Framework**

The legal framework for a depository system has been laid down by the Depositories Act, 1996 and is regulated by SEBI. The depositories are regulated by –

- The Depositories Act, 1996

- The SEBI (Depositories and Participants) Regulations, 1996
- Bye-laws of Depository
- Business Rules of Depository.

Apart from the above, Depositories are also governed by certain provisions of :

- The Companies Act, 1956
- The Indian Stamp Act, 1899
- Securities and Exchange Board of India Act, 1992
- Securities Contracts (Regulation) Act, 1956
- Benami Transaction (Prohibition) Act, 1988
- Income Tax Act, 1961
- Bankers' Books Evidence Act, 1891
- Prevention of Money Laundering Act - 2002.

The legal framework for depository system as envisaged in the Depositories Act, 1996 provides for the establishment of single or multiple depositories. Any body to be eligible for providing depository services must be formed and registered as a company under the Companies Act, 1956 and seek registration with SEBI and obtain a Certificate of Commencement of Business from SEBI on fulfillment of the prescribed conditions. The investors opting to join depository mode are required to enter into an agreement with depository through a participant who acts as an agent of depository. The agencies such as custodians, banks, financial institutions, large corporate brokerage firms, non-banking financial companies etc. act as participants of depositories. The companies issuing securities are also required to enter into an agreement with the Depository.

The companies which enter into an agreement with the depository are required to give an option to the holders of eligible securities to avail the services of the depository after entering into an agreement with the depository through participants. As at present the issue to public has to be in dematerialised form alongwith the option to investor to hold securities in physical form. In case of investors who hold the shares in physical form and are desirous to join the depository are required to surrender the certificates of securities to the issuer company in the specified manner and on receipt of information about dematerialisation of securities by the issuer company, the depository enters in its records the names of the investors as beneficial owners. Similarly, the beneficial owner has right to opt out of a depository in respect of any security and claim the share certificates and get his name substituted in the register of members as the registered owner in place of the depository.

There is a regular, mandatory flow of information about the details of ownership in the depository record to the company concerned. In case of



any reservation about the share acquisition on the ground that the transfer of shares or debentures is in contravention of any of the provisions of SEBI Act or Regulations made thereunder or the Sick Industrial Companies (Special Provisions) Act, 1985 or any other law for the time being in force the Depository, Company, Participants or investors or SEBI has a right to make an application to the Company Law Board /National Company Law Tribunal (CLB/NCLT) for rectification of register or records. Pending decision of CLB/NCLT the transferee concerned is to be entitled to all the rights and benefits of the shares including the right to transfer the securities except that the Company Law Board/NCLT may at its discretion make an interim order suspending the voting rights.

The Act provides for detailed regulations to be framed by SEBI and detailed bye-laws to be framed by depositories with the approval of SEBI. The bye-laws provides for rights and obligations of participants, beneficial owners and procedure for ensuring adequate safeguards to protect the interest of investors. The Act requires the depository to indemnify for loss caused to the beneficial owners due to negligence of depository or its participants.

### **The Depositories Act, 1996**

#### **Objectives**

The depositories legislation as per the Statement of Objects and Reasons appended to the Depositories Act, 1996 aims at providing for:

- A legal basis for establishment of depositories to conduct the task of maintenance of ownership records of securities and effect changes in ownership records through book entry;
- Dematerialisation of securities in the depositories mode as well as giving option to an investor to choose between holding securities in physical mode and holding securities in a dematerialized form in a depository;
- Making the securities fungible;
- Making the shares, debentures and any interest thereon of a public limited company freely transferable; and
- Exempting all transfers of shares within a depository from stamp duty.

#### **Eligibility Condition for Depository services**

Any company or other institution to be eligible to provide depository services must :

- be formed and registered as a company under the Companies Act, 1956.
- be registered with SEBI as a depository under the SEBI Act, 1992.

- has framed bye-laws with the previous approval of SEBI.
- has one or more participants to render depository services on its behalf.
- has adequate systems and safeguards to prevent manipulation of records and transactions to the satisfaction of SEBI.
- complies with Depositories Act, 1996 and SEBI (Depositories and Participants) Regulations, 1996.
- meets eligibility criteria in terms of constitution, network, etc.

### **Eligible Securities Required to be in the Depository mode**

Section 8 of the Depositories Act gives the option to the investors to receive securities in physical form or in depository mode.

It is not necessary that all eligible securities must be in the depository mode. In the scheme of the Depositories legislation, the investor has been given supremacy. If he wishes to avail of the depository services in respect of any eligible security, whether existing or to be issued, the issuer who has entered into an agreement with one or more depositories has to give him the facility. The investor has the choice of holding physical securities or opt for a depository based ownership record. At the time of fresh issue, the issuer who has entered into an agreement with the depository is under an obligation to give the option to the investors either to receive the security certificates under the existing paper based system (non-depository mode) or opt to hold securities with a depository (depository mode). The decision as to whether or not to hold securities within the depository mode and if in depository mode, which depository or participant, would be entirely with the investor. Such freedom can be exercised either at the time of the initial offer of the security by indicating his choice in the application form or at any subsequent time. Investor will also have the freedom to switch from depository mode to non-depository mode and *vice versa*.

A company can not make public or rights issue or an offer for sale of securities, unless the company enters into an agreement with a depository for dematerialization of securities already issued or proposed to be issued to the public or existing shareholders; and the company gives an option to subscribers / shareholders / investors to receive the security certificates or hold securities in dematerialized form with a depository.

### **Fungibility**

Section 9 states that securities in depositories shall be in fungible form.

The Act envisages that all securities held in depository shall be fungible i.e. all certificates of the same security shall become interchangeable in the sense that investor loses the right to obtain the exact certificate he surrenders at the time of entry into depository. It is like withdrawing money from the

bank without bothering about the distinctive numbers of the currencies.

Immobilisation of securities in a depository mode refers to a situation where the depository holds securities in the form of physical paper side by side with electronic evidence of ownership. In such a case the transfers are not accompanied by physical movement of securities but securities are in existence in the custody of the depository. However, the Depositories Act, envisages dematerialisation in the depository mode. In such a case the securities held in a depository shall be dematerialized and the ownership of the securities shall be reflected through book entry only. The securities outside the depository shall be represented by physical scrips. Hence, the depository legislation envisages partial dematerialisation, i.e. a portion of the securities in dematerialized form and the other portion in physical form. Sections 153, 153A, 153B, 187B, 187C and 372 (now 372A) of Companies Act, 1956 shall not apply to a depository in respect of shares held on behalf of beneficial owners in depositories.

#### **Powers of the Central Government**

The powers of the Central Government under sections 23 and 24, include powers (a) to make rules for carrying out the provisions of Depositories Act, and (b) to hear appeals from the orders of SEBI issued before the commencement of the Securities Laws (Second Amendment) Act, 1999 (w.e.f. 16.12.1999).

After commencement of the Securities Laws (Second Amendment) Act, 1999, any person aggrieved by an order of SEBI may prefer an appeal to the Securities Appellate Tribunal.

#### **Right to Legal Representation**

Section 23C provides that the appellant may either appear in person or authorise one or more Company Secretaries or Chartered Accountants or Cost Accountants, in practice or Legal Practitioners or any of its officers to present his/its case before the Securities Appellate Tribunal.

#### **Areas on which Rules may be Framed by the Central Government**

The Central Government under Section 24, may frame Rules to provide, *inter alia*, for:

- the manner of inquiry under sub-section (1) of Section 19H.
- the time within which an appeal may be preferred from the orders of SEBI under Section 23(1).
- the form in which an appeal may be preferred and the fees payable in respect of such appeal.
- the procedure for disposing of an appeal.
- the form in which an appeal may be filed before the Securities Appellate Tribunal under Section 23A and the fees payable in respect of such appeal.

### **Powers of SEBI**

The SEBI has powers :

- to register the depositories and the participants under the SEBI Act, 1992.
- to issue certificate of commencement of business to the depositories on being satisfied that the depository has adequate systems and safeguards to ensure against manipulation of records and transactions (section 3).
- to frame regulations under the SEBI Act, as well as under the Depositories Act, to carry out the purposes of the Depositories Act.
- to suspend or cancel the certificate of registration after giving the other party a reasonable opportunity of being heard to regulate depositories, participants, issuers and their relationship with the investors.
- to monitor, inspect, call for information summon and enforce attendance of witnesses and production of documents, conduct inquiries and audits of depositories, participants, investors and issuers of securities.
- to specify the securities and the eligibility criteria of the securities for admission into a depository.
- to give directions to any depository, participant or issuer in the interest of investors or the securities market.
- to approve the bye-laws of a depository and amend or revoke any bye-laws of the depository.

### **Contents of the SEBI Regulations**

Section 25 of the Depositories Act, 1996 read with section 30 of the SEBI Act, 1992 empowers SEBI to make regulations for carrying out the purposes of the Act, by notification in the Official Gazette. The regulations may, *inter alia*, provide for:

- The requirements to be complied with by a person for seeking registration as a Depository with SEBI under the SEBI Act, 1992.
- The requirements for registration of a person as a participant under the SEBI Act.
- Determination of any form in which records may be maintained by a Depository. As per section 2(1)(i) of the Act, 'record' includes the records maintained in the form of books or stored in a computer or in such other form as may be determined by regulations.
- The requirements for grant of certificate of commencement of

business by depositories and the form in which the certificate of commencement of business has to be issued.

- The manner in which the certificate of security shall be surrendered to the issuer by any investor who is desirous of availing depository services.
- The manner in which the issuer has to cancel the certificates of securities received by it for cancellation and its intimation to the depository.
- The manner in which the depository has to register transfer of security in the name of the transferee on receipt of the intimation from a participant and where the beneficial owner or a transferee seeks to have custody of security, the manner in which the depository shall inform the issuer.
- Where a person opts to hold a security with a depository in the event of a public issue, the manner in which the issuer is required to intimate the depository the details of allotment of the security.
- The requirements to be complied with by a beneficial owner for creating with the previous approval of depository, pledge or hypothecation in respect of a security owned by him through depository.
- The conditions and the fees payable with respect to the issue of certificate of securities to the beneficial owner where the beneficial owner seeks to opt out of the depository.
- The rights and obligations of the depositories, participants, and the issuers whose securities are dealt with by a depository.
- The eligibility criteria for admission of securities into the depository.

### **Bye-laws of a Depository**

Depository is required to frame its bye-laws with the prior approval of SEBI, consistent with the provisions of the Act and the regulations made by SEBI thereunder. SEBI has, however, the power to direct the depository to amend or revoke any bye-laws already made, wherever it considers expedient to do so. If the depository fails or neglects to comply with the directions of SEBI, SEBI may make the bye-laws or amend or revoke the bye-laws on its own.

### **Contents of the bye-laws**

As per sub-section 2 of section 26 of the Act, the bye-laws of a depository would include :

- the eligibility criteria for admission and removal of securities in the depository.

- the conditions subject to which the securities shall be dealt with.
- the eligibility criteria for admission of any person as a participant.
- the manner and procedure for dematerialisation of securities.
- the procedure for transactions within the depository.
- the manner in which securities are to be dealt with or withdrawn from a depository.
- the procedure for ensuring safeguards to protect the interests of participants and beneficial owners.
- the conditions of admission into and withdrawal from a participant by a beneficial owner.
- the procedure for conveying information to the participants and beneficial owners on dividend declaration, shareholder meetings and other matters of interest to the beneficial owners.
- the manner of distribution of dividends, interest and monetary benefits received from the company among beneficial owners.
- the manner of creating pledge or hypothecation in respect of securities held with a depository.
- *inter-se* rights and obligations among the depository, issuer, participants and beneficial owners.
- the manner and the periodicity of furnishing information to SEBI, issuer and other persons.
- the procedure for resolving disputes involving depository, issuer company or a beneficial owner.
- the procedure for proceeding against the participant committing breach of the regulations and provisions for suspension and expulsion of participants from the depository and cancellation of agreements entered with the depository.
- the internal control standards including procedure for auditing, reviewing and monitoring.

#### **Applicability of Section 372A of Companies Act on a Depository**

The name of the depository is entered in the records of an issuer as a registered owner in respect of securities held by it on behalf of the beneficial owners. It is possible that a registered owner (Depository) can hold 100% of the securities of a company. This will, however, not contravene section 372A of the Companies Act, 1956, as the registered owner does not have any economic or voting right in respect of these securities.

**Membership Rights in Respect of Securities held by a Depository**

The depository as a registered owner shall not have any voting rights or any other rights in respect of securities held by it on behalf of the beneficial owners. The beneficial owner shall be entitled to all the rights and benefits (including the right to vote) and be subjected to all the liabilities in respect of securities held by a depository.

**Evidentiary Value of the Records of the Depository**

Section 15 of the Act treats depository as a bank for the purposes of the Bankers' Books Evidence Act, 1891. The ownership records of securities maintained by depositories, whether maintained in the form of books or machine readable forms, shall be accepted as *prima facie* evidence in all legal proceedings.

**Securities and Exchange Board of India (Depositories And Participants) Regulations, 1996**

The Depositories Act requires that the registration of the depository, depository participant and the custodian, is mandatory with the Securities and Exchange Board of India. These market intermediaries can function or commence business only after registration from SEBI has been obtained and requisite fee paid to SEBI. The requirement of registration is a continuing one and the moment the registration is cancelled or revoked or surrendered, the person shall cease to act as such.

SEBI had issued SEBI (Depositories and Participants) Regulations, 1996 on 16th May, 1996 which apply to depositories and its participants. It requires that a depository has to be a statutory agency or institution and has to be registered with SEBI. Even the commencement of its business will have to be certified by the SEBI, before it functions under the Act. The Bye-Laws of the depository also require approval from SEBI. The provisions and procedure relating to certificate of registration, commencement, rights and obligations of depositories, participants, issuers, agents and beneficial owners; agreements between users, fungibility, dematerialisation and rematerialisation, books of account, inspection and audit, appeals, forms, fee, etc. are contained in the SEBI regulations.

These regulations also contain provisions for operations and functioning of depositories, form for application and certificates used and schedule of fees for participants, etc. It also contains provisions for registration of depository and depository participants, rights and obligations of various users and constituents, inspection and procedure for action in case of default.

Entities desiring to become depository participants must apply to the depository and are required to be recommended to SEBI by the depository. If approved and registered by SEBI, the depository participant can be admitted on the depository. The depository has to formulate its own set of criteria for selection of participants.

The regulations require the depository to list out, through its Bye-laws, the securities which are eligible to be admitted to the depository for dematerialisation. Equity shares, debentures, warrants, bonds, units of mutual funds, etc. are part of the list of eligible securities. The depository is empowered to set its own criteria for selection of securities and make securities eligible to be maintained in the form of electronic holdings on the depository.

Further, the regulations stipulate that agreements should be entered into by the following entities :

- depository and every participant
- participant and every client
- depository, issuer company and the Registrar

The draft of these agreements are to be included in the Bye-laws and to be approved by SEBI.

The depository is required to ensure that sufficient safeguards are in place to protect the data available with it and with the participants. To reduce risk in operations, the regulations stipulate that adequate insurance cover be provided by the depository and by the depository participants as well.

The regulations also require for reconciliation to be carried out on a daily basis. Further, the depository and the registrar will also reconcile balances on a daily and a periodic basis.

### **Rights and Obligations of Depositories and its Constituents**

Regulations deal with rights and obligations of depositories and every depository has to state in its bye-laws the eligible securities for dematerialisation which include shares, scrips, stock, bonds, debentures stock, etc., and include units of mutual funds, rights under collective investment schemes and venture capital funds, commercial paper, certificate of deposit, securitised debt, money market instruments and even unlisted securities.

Every depository is required to enter into an agreement with the issuer in respect of securities disclosed as eligible to be held in demat form. No agreement is required to be entered into where the depository itself is an issuer of securities.

The depository is also required to enter into a tripartite agreement with the issuer, its transfer agent and itself where company has appointed a transfer agent. Every depository is required to maintain continuous connectivity with issuers, registrars and transfer agents, participants and clearing house or clearing corporations. Depositories should take adequate measures including insurance to protect the interest of the beneficial owners.



Every depository is required to maintain the following records and documents namely:

- records of securities dematerialised and rematerialised;
- the names of the transferor, transferee, and the dates of transfer of securities;
- a register and an index of beneficial owners;
- details of holding of the securities of the beneficial owners as at the end of the each day;
- records of instruction(s) received from and sent to participants, issuers' agents and beneficial owners;
- records of approval, notice, entry and cancellation of pledge or hypothecation, as the case may be;
- details of participants;
- details of securities declared to be eligible for dematerialisation in the depository; and
- such other records as may be specified by the SEBI for carrying on the activities as a depository.

Every depository has to intimate the Board the place where the records and documents are maintained.

Subject to the provisions of any other law, the depository shall preserve records and documents for a minimum period of five years.

Participants are required to enter into an agreement with beneficial owners. It is required that separate accounts are to be opened by every participant in the name of each of the beneficial owner and the securities of each beneficial owners are to be segregated and shall not to be mixed up with the securities of other beneficial owners or with the participant's own securities. The participants are obliged to reconcile the records with every depository on a daily basis. Participants are required to maintain the following records for a period of five years-

- records of all the transactions entered into with a depository and with a beneficial owner;
- details of security dematerialised, rematerialised on behalf of beneficial owners with whom it has entered into an agreement.
- records of instructions received from beneficial owners and statements of account provided to beneficial owners; and
- records of approval, notice, entry and cancellation of pledge or hypothecation as the case may be.

## **INTERNAL AUDIT AND CONCURRENT AUDIT OF OPERATIONS OF DEPOSITORY PARTICIPANTS**

The two Depository service providers in India, viz., National Securities Depository Ltd. (NSDL) and Central Depository Services (India) Limited (CDSL) have allowed Company Secretaries in Whole-time Practice to undertake internal / concurrent audit of the operations of Depository Participants (DPs).

### **Internal Audit of Depository Participants**

NSDL has vide its circular No. NSDL/SG/II/010/99 dated 26th March 1999 notified amendment of its Bye Law 10.3.1 of Chapter 10 as follows:

10.3.1 "Every Participant shall ensure that an internal audit in respect of the operations of the Depository is conducted at intervals of not more than three\* months by a qualified Company Secretary or a Chartered Accountant\*\* holding a Certificate of Practice and a copy of the internal audit report shall be furnished to the Depository."

\* The period of three months has been raised to six months vide circular no. NSDL / Policy / 2008 /0072 dated 17 October, 2008.

\*\* Cost and Management Accountant has also been included vide Circular No. NSDL/Policy/2009/0020 dated 16th March 2009.

CDSL has vide its letter dated September 28, 1999 notified amendment of its Bye Laws 16.3.1 as follows:

16.3.1 "Every Participant shall ensure that an internal audit shall be conducted in respect of the participant's operations relating to CDS by a qualified Chartered Accountant in accordance with the provisions of the Chartered Accountants Act, 1949 or by a Company Secretary in practice in accordance with the provisions of the Company Secretaries Act, 1980, at such intervals as may be specified by CDS from time to time. A copy of Internal Audit report shall be furnished to CDS."

### **Concurrent Audit of Depository Participants**

NSDL vide its circular No. NSDL/POLICY/ 2006/0021 dated June 24, 2006 has advised all the participants that the process of demat account opening, control and verification of Delivery Instruction Slips (DIS) shall be subject to Concurrent Audit by a firm of Company Secretary(ies) holding certificate of practice or qualified Chartered Accountant(s). Participants in case they so desire, can entrust the concurrent audit to their Internal Auditors.

The Concurrent Auditor should conduct the audit in respect of all accounts opened, DIS issued and controls on DIS, during the day, by the next working day. In case the audit could not be completed within the next working day due to large volume, the auditor should ensure that the audit is completed within a week's time.

Further NSDL vide its Circular No. NSDL/Policy/2011/0031 dated 8 April, 2011 has expanded the scope of concurrent audit to include

- (1) account closure initiated by the participant;
- (2) investor grievances received by the participant;
- (3) power of attorney modifications;
- (4) providing transactions statements to clients.

Any deviation and/or non-compliance observed in the aforesaid areas should be mentioned in the audit report of the Concurrent Auditor. The Management of the Participant should comment on the observations made by the Concurrent Auditor.

CDSL also vide COMMUNIQUE no. CDSL/AUDIT/DP/721 dated July 11, 2006 instructed DPs to have the concurrent audit of certain risk prone areas of their CDSL operations with effect from 1st September, 2006. The concurrent audit should be conducted by an independent firm of Company Secretary(ies) holding a Certificate of Practice or qualified Chartered Accountants(s). The concurrent auditors should verify these areas on 100% basis and submit the report to the DP on a monthly basis by the 10th of the following month. A DP may appoint its internal auditor as its concurrent auditor. The consolidated concurrent audit report covering the half-year along with management comments should be submitted to CDSL on a half yearly basis along with its internal audit report.

1. The concurrent audit of risk prone areas of CDSL operations should be conducted on 100% basis with effect from September 01, 2006 and in case any serious non-compliance the same should be reported to CDSL immediately by concurrent auditor.
2. The consolidated concurrent audit report covering the half-year along with management comments should be submitted to CDSL on a half-yearly basis along with its internal audit report. The due date for submission of internal audit report will remain the same.

A checklist is given below to facilitate members in practice to carry out the internal audit of the operations of Depository Participants.

## **CHECKLIST FOR INTERNAL & CONCURRENT AUDIT OF OPERATIONS OF DEPOSITORY PARTICIPANTS**

The Checklist points stated below are common to DPs of both NSDL and CDSL :

### **1. Account Opening**

To ensure the following:

- (i) Whether self attested copy of PAN are obtained for all the accounts wherever applicable?

Obtaining PAN Card details of all the holders is compulsory for all categories of demat account holders. In some cases, the PAN is not required to be entered. Such cases have to be handled by entering the appropriate exemption codes. The exemption codes are provided by way of communiques from time to time.

- (ii) Whether PAN are verified with the database of the income tax department for all the accounts ?
- (iii) Whether there is adequate mechanism to ensure that the details of account opening forms are correctly entered in the CDAS ?
- (iv) Whether Stamp of "Verified with Original" is affixed on proof of address document?
- (v) Whether all KYC documents are self attested by the BO(s)
- (vi) (a) That the participant has obtained any one of the following from the Beneficial Owner (BO) as a proof of identity :
  - (I) Passport;
  - (II) Voter-Id card;
  - (III) Driving licence;
  - (IV) PAN card with photograph;
  - (V) Unique Identification Number (UID) (Aadhaar) / Passport/ Voter ID Card / Driving Licence;
  - (VI) Identity card / document with applicant's photo issued by -
    - (a) Central/State Government and its Departments
    - (b) Statutory/Regulatory Authorities
    - (c) Public Sector Undertakings
    - (d) Scheduled Commercial Banks
    - (e) Public Financial Institutions
    - (f) Colleges affiliated to Universities
    - (g) Professional Bodies such as ICSI, ICAI, ICWAI Bar Council, etc., to their Members

- (h) Credit cards/Debit cards with photographs issued by Banks.
- (b) That the participant has obtained any one of the following from the Beneficial Owner (BO) as a proof of residence :

**Proof of Address**

- (I) Ration card
- (II) Passport
- (III) Voter ID Card
- (IV) Driving license
- (V) Bank passbook
- (VI) Verified copies of -
  - (a) Electricity bills (Bill date not more than three months old)
  - (b) Residence Telephone bills (Bill date not more than three months old)
  - (c) — Registered lease or sale agreement of Residence  
— flat maintenance bill
  - (d) Gas bill
- (VII) Self-declaration by High Court & Supreme Court judges, giving the address in respect of their own accounts.
- (VIII) Identity card/document with address, issued by:
  - (a) Central/State Government and its Departments
  - (b) Statutory/Regulatory Authorities
  - (c) Public Sector Undertakings
  - (d) Scheduled Commercial Banks
  - (e) Public Financial Institutions
- (vii) That the photographs of all the account holders had been duly affixed and not stapled.
- (viii) That all the account holders had signed across the photographs.
- (ix) That each account had been opened separately for sole and joint holding and also for each sub-status of the Investor/Beneficial Owner (BO).
- (x) That the agreement between Depository Participant (DP) and the BO seeking to open the account had been signed by both the parties and bears the signatures of witnesses. Also every page had been initialed. A copy of the agreement is given to the client.
- (xi) Whether all disproportionately high number of existing accounts

with same or similar names and / or same address and / or with the same bank details was checked for genuineness ?

(xii) In case of change of address of the BO, whether proof of new address is obtained and a confirmation letter is sent to the BO at old as well as at the new address ?

(xiii) Guidelines for in-person verification of clients

In-person Verification (IPV):

(a) It is mandatory for all Participants to carry out IPV of their Clients. At the time of opening depository accounts, the Participant should establish the identity of the applicant(s) (including guardian in case of minor account) by verifying the photograph(s) affixed in the KYC Application Form as well as proof of identity document(s) as mentioned above, with the person concerned. Further, in case of joint accounts, 'in-person' verification needs to be carried out for all the holders of the account. Participants may use web-camera for carrying out 'in-person' verification for opening of depository accounts subject to compliance with other SEBI guidelines/circulars relating to opening of depository accounts including verification of documents.

(b) Upon the applicant(s) submitting the KYC Application Form and the account opening form, proof of identity & address documents and PAN details, the Participant should follow the procedure as given below:

(i) Verify the identity of the applicant(s) as clarified above.

(ii) After due verification, the Participants shall ensure that the following details are recorded on the KYC Application Form at the time of IPV:

1. name of the person doing IPV,
2. his designation,
3. organization,
4. his signature, and
5. date.

(iii) Manner of recording IPV details on KYC Application Form: Participants may either affix a stamp or print the IPV details or write the same on the KYC Application Form. If 'in-person' verification is done through web camera, then mention "IPV through webcam" be made as well.

(iv) Place where IPV details are to be recorded on the KYC Application Form: Participants may record the same at any appropriate place on the KYC Application Form as may be deemed fit by the Participant without making

illegible the other details mentioned in the KYC Application Form. For non-individuals such as HUF, unregistered trust, etc. where the KYC Application Form for non-individuals is filled up and the depository account would be opened in the name of the individual (such as karta, trustee, etc.), the IPV details may, if Participants find it appropriate, be recorded at the Annexure to KYC Application Form where the details of the karta, trustee, etc. are mentioned.

- (v) Attachment of separate sheet to the KYC Application Form or affixing stickers on the KYC Application Form for recording of IPV details is not be permitted.
  - (c) The IPV carried out by one SEBI registered intermediary can be relied upon by another intermediary.
  - (d) In case of Stock brokers, their sub-brokers or Authorised Persons (appointed by the stock brokers after getting approval from the concerned Stock Exchanges in terms of SEBI Circular) can perform the IPV.
  - (e) In case of Mutual Funds, their Asset Management Companies (AMCs) and the distributors who comply with the certification process of National Institute of Securities Market (NISM) or Association of Mutual Funds (AMFI) and have undergone the process of 'Know Your Distributor (KYD)', can perform the IPV. However, in case of applications received by the mutual funds directly from the clients (i.e. not through any distributor), they may also rely upon the IPV performed by the scheduled commercial banks.
  - (f) In the case of NRIs/foreign nationals, considering the infeasibility of carrying out 'in-person' verification, in such a situation photocopies of the KYC documents should be attested by any of the entities viz; Notary Public, any Court, Magistrate, Judge, Local Banker, Indian Embassy/ Consulate General of the country where NRI/FN is residing outside India to the effect that it has been verified with the originals.
- (xiv) That the following details had been duly filled, in the application form:
- (a) Name of the BO;
  - (b) Address, Telephone Nos. Fax No.;
  - (c) Status code, sub-status code;
  - (d) Bank Account particulars such as name of the Bank and its Branch, Current Account /Saving Account and details to ensure that 9 digit code of the Bank and Branch appearing on MICR

Cheque issued by Bank, has been furnished whether participant has obtained specimen copy of the cheque;

- (e) Details of IT Circle/Ward/Dist. No. and PAN Number, have been furnished;
- (f) Signatures of BO;
- (g) In specimen signature-card, signature of BO and their passport size photograph;
- (h) In addition to the above stated particulars, the following details were also given :

In case of Individual:

- Father/Husband's name;
- In case of minor, Date of Birth and details of guardian furnishing the name, relationship (if any) along with the complete address;
- Occupation of BO;
- Nominee's Name and Address. (Nomination form to be used).

In case of NRI:

*Repatriable basis*

- Copies of Approval Letter of RBI/FIPB;
- Whether all the transactions are in accordance with FEMA regulations;
- Proof of Foreign Address/Indian Addresses.

*Non Repatriable basis*

- RBI approval letter for acquiring securities;
- Nominee's Name and Address. (Nomination form to be used) (Applicable for all individual category of accounts);
- Proof of Foreign Address/Indian Address.

In case of Corporates, check that the following had been furnished:

- A copy of the certificate of incorporation, MOA & AOA;
- Status whether they are mutual fund companies;
- Status of registration with RBI in case of NBFCs;
- Certified true copy of Board resolution appointing authorised signatories to operate the demat account with their names, designation and specimen signatures or the Power of Attorney given to authorised signatories;



- Names of the authorized signatory(ies), designation, photograph and their signatures duly verified by Managing Director/Company Secretary.
- One passport size photograph of each authorised signatories with their signatures across the face of the photograph.
- Copy of the balance sheets for the last 2 financial years (to be submitted every year).
- Copy of latest share holding pattern including list of all those holding control, either directly, in the company in terms of SEBI takeover Regulations, duly certified by the company secretary / Whole time director / MD (to be submitted every year)
- Photograph, PO, POA, PAN and DIN numbers of whole time directors / two directors in charge of day to day operations.
- Photograph, POI, POA, PAN of individual promoters holding control - either directly or indirectly.

**Clearing Member (CM)**

- (a) If CM is a corporate body:
- It is suggested that the true copy of certificate of registration with SEBI, should be certified by Managing Director/Company Secretary.
  - Certified true copy of Board Resolution authorizing opening of demat accounts and specifying the name of person(s) authorized by the Board to operate the said demat account. The resolution must specify the manner of operation of the account and authority given to open and operate the demat account.
  - It is suggested that the names of the authorized signatories, designation, and their specimen signatures should be verified by the Managing Director/Company Secretary.
  - Memorandum and Articles of Association of the Company & Certificate of Incorporation of the Corporate Investor.
  - Proof of address evidenced by document registered with registering authority or bank statement or agreement for sale or leave and license agreement or acknowledged copy of Income Tax return or Telephone bills (Bill date not more than two months old) or Electricity bills (Bill date not more than two months old).
  - PAN card of the corporate entity.

**FIIIs**

- (a) True copy of Certificate of Registration with SEBI, certified by Managing Director/Company Secretary.
- (b) True copy of Board Resolution, duly certified by Managing Director/Company Secretary, authorizing opening of demat account, specifying names of persons authorized by the Board to open the demat account. The resolution must specify the manner of operation of the account and authority given to authorized signatory(ies), to open and operate the demat account.
- (c) Names of the authorized signatory (ies), designation, photograph and their specimen signatures, duly certified by Managing Director/Company Secretary.
- (d) Memorandum and Articles of Association of the Company, if any.
- (e) Participants need not enter into Participant-Client agreement provided;
  - (i) FIIIs are registered with SEBI and have entered into an agreement with the Participant either directly or through their power of attorney holders in accordance with the provisions of sub-regulation (1) of regulation 16 of the SEBI (Foreign Institutional Investors) Regulations, 1995;
  - (ii) Such agreement gives the Participant an authority to act on behalf of the FIIIs for availing the services of the Depository;
  - (iii) Such agreement has been filed with SEBI;
  - (iv) International Multilateral Agency, who has entered into an agreement with the Participant under regulation 17 of the SEBI (Custodians of Securities) Regulations 1996, and such agreement states that the Custodian will also act as a Participant and all provision pertaining to Participant shall be applicable; then such Participant need not enter into an agreement.

**2. Reporting to BO(s)**

To ensure that Depository Participant had reported the following information to the BO(s):

- (i) Monthly transaction statement and if there was no transaction then quarterly statement
- (ii) Allotment details in case of primary market issues
- (iii) Confirmation of any modification in the demat account detail

- (iv) Corporate action benefits
- (v) Set up of dematerialization request(s);
- (vi) Suspension or revoking of suspension, freezing or refreezing of accounts;
- (vii) Information about failed transactions.

### **3. Dematerialisation of Securities**

To check that :

- (i) BO had submitted to the DP, the securities for dematerialisation alongwith the Dematerialisation Request Form (DRF);
- (ii) That all Demat Requests had been received from BOs, whose accounts had been opened in the same order as mentioned on share certificates. If the order of names mentioned on share certificate does not match with that of those appearing on the DRF then check for the transposition request;
- (iii) No dematerialisation request had been entertained by the participant other than from a registered holder of securities;
- (iv) Requests accepted for dematerialisation belong only to those securities declared by the Depository as 'eligible' for dematerialisation, as on the date of acceptance of the DRF. Also ensure that certificates accepted for demat pertained to the distinctive number ranges as intimated by the Issuer and communicated to DPs;
- (v) The DRF submitted by the BO had been completely filled and duly signed;
- (vi) The DP had issued a system generated Acknowledgement of the Demat Request after putting his seal/rubber stamp and signature of the authorised signatory, to the BO;
- (vii) The DP had duly verified the signature of the BO, as on the form, with the specimen available in its records;
- (viii) In case of signature mismatch, the DP had not accepted /processed dematerialisation request;
- (ix) The details of the certificates submitted for dematerialisation was in consonance with the details filled up in the corresponding DRF;
- (x) The certificates submitted for dematerialisation had been marked by the BO with the words "surrendered for Dematerialisation";
- (xi) The DP had ensured the safety and security of the certificates submitted for dematerialisation till the certificates were forwarded to the Issuer or its Registrar and Transfer Agent;

- (xii) The DP had ensured that a separate DRF had been filled in by the BO for securities having distinct International Securities Identification Numbers (ISIN's);
- (xiii) The DP had ensured that a separate DRF had been filled in by the BO for locked-in and free securities having the same ISIN;
- (xiv) The DP had ensured that the BO(s) had submitted a separate DRF for each of his/her/their/ its accounts maintained with the DP;
- (xv) Details recorded for the Dematerialisation Request Number (DRN) were verified by a person authorised to verify the request as per the Access Authorisation Scheme recommended by Depository (i.e. the function of capture and verify release is done by two different users. In case of CDSL transactions are to be entered and committed);
- (xvi) The DP had forwarded the DRF to the Issuer or its Registrar and Transfer Agent only after ascertaining that the number of certificates annexed with the DRF tallies with the number of certificates mentioned on the DRF, within 7 days of its receipt;
- (xvii) In the case of securities which had been submitted for dematerialisation for which any objection memo had been received from the Issuer or its Registrar and Transfer Agent, the DP had facilitated the correction of such objections within reasonable time; (7 days)
- (xviii) DP had diligently followed the pending cases of Dematerialisation of securities and reported the delay to the account holder which is on part of the company/R&T Agents;
- (xix) DP has informed the client in case of rejection of demat request within reasonable time. (7 days)

#### **4. Instruction Slip**

- (a) Whether there is proper inventory control mechanism for instruction slip booklets ?
- (b) Whether physical inventory is tallied with the inventory records at prescribed intervals ?
- (c) Whether the DIS issued to BOs have pre-stamped BO ID and pre-printed serial number ?
- (d) Whether the first instruction slip booklet is being issued as per the procedure prescribed for the same ?
- (e) Whether there is system to issue delivery instruction booklets to the BOs based ONLY on the requisition slip which forms part of the earlier issued instruction slip booklet ?

- (f) Whether loose delivery instruction slips are issued ?
  - If yes, whether they are issued as per the prescribed procedure to the BOs ?
- (g) Whether instruction slips are checked and signatures are verified by two officials (staff of the DP has to do the checker) separately for their correctness ?
- (h) Whether there is a system to ensure that DIS having transactions with value more than Rs. 5 lakhs are verified by a senior official and additionally checked by another employee ?
- (j) Whether all debit transactions pertaining to the government securities have been executed only after receipt of authorisation from the BO ?
- (j) Whether participant accepts instructions by fax from the account holder ?
- (k) Is there a system in place to prevent multiple execution of the same instruction, in case fax instruction are accepted ?
- (l) Whether participant has obtained an indemnity from the account holder who want to give instruction over fax ?

#### **5. Rematerialisation of Securities**

To ensure that the following system was followed in rematerialisation of securities:

- (i) The BO(s) submitted a request to the DP for rematerialisation of holdings in his/her/their account.
- (ii) On receipt of the rematerialisation request form (RRF), the DP had verified that the form was duly filled in and had issued to the BO an acknowledgement slip duly signed and stamped.
- (iii) The DP had duly verified the signature of the BO as on the form with the specimen available in its records.
- (iv) In case of signature mismatch, DP had not accepted /processed rematerialisation request.
- (v) If the form had been in order the DP had entered the request details in its NSDL-DPM/CDSL-DP-front end system. While entering the details if it was found that the BO's account did not have enough balance, the DP had not entertained the request.
- (vi) The DP had intimated the BO that the request could not be entertained since the BO did not have sufficient balance.
- (vii) The RRN so generated was entered in the space provided for the purpose in the rematerialisation request form.

- (viii) Details recorded for the RRN were verified by a person authorised to verify the request as per the Access Authorisation Scheme recommended by Depository (i.e. the function of capture and verify release is done by two different users. In case of CDSL transactions are to be entered and committed).
- (ix) The DP forwarded the request to the Issuer/R&T agent electronically.
- (x) The DP had filled the authorisation portion of the request form.
- (xi) The DP had dispatched the request form to the Issuer/R&T agent within 7 days of accepting such request from the BO.
- (xii) The DP had informed the Issuer/R&T about the changes in the BO account, following the acceptance of the request.

## **6. Market Trades**

### **(A) Authorisation for debit (delivery)**

To ensure that:

- (i) The selling BO had submitted a request to the DP for transferring balances from its account to the Pool / Principal of the CM through whom the BO intended to settle his trade. The BO had specified the market type and the settlement number of the trading period for the trade for which transfer was being executed, the quantity of security, execution date and also the "NSDL-CM-BP-Id/CDSL-CM ID" of the clearing member in the depository system.
- (ii) On receipt of the request the DP had verified that the form was duly filled.

In case of DP of CDSL check whether the following procedure was followed:

- (1) Where Clearing House (CH) provides facility to settle trades at the BO level check that:
  - (i) DP had been monitoring the on-market confirmation instructions entered by them. In case of a mismatch DP had taken steps to rectify the error.
  - (ii) The follow up by the DP was done before pay-in-time.
  - (iii) The unmatched sale obligations and the short quantity had been communicated by the DPs to the BO.
- (2) In case the Clearing House does not permit a BO level settlement and does a Clearing Member level Settlement only, check that the following procedure was adhered to:
  - (i) The BOs transferred the securities to the Clearing Member's clearing account.;

- (ii) At the time of pay-out the receiving obligations were credited directly to the Clearing Account;
- (iii) The DPs had ensured that all transfer instructions given by the CMs were executed promptly.

**(Note:** The treatment of transfer of Securities between the BOs to the CMs is treated as part of on-market transfers by NSDL and as off-market transfers by CDSL).

**(B) Transfers**

To ensure that:

- (i) The DP had entered the request in the depository system.
- (ii) The system had generated an instruction number for the request. The DP had verified and released the instruction.
- (iii) The execution date entered by the DP was as provided by the BO. For alterations made in case of transactions not being executed on the date as specified by the BO, the same should be executed after obtaining BOs authorisation. In case the execution date entered happened to be a holiday, the transfer was executed on the next business day following the holiday.
- (iv) If sufficient free balance was not available in the BO account on the execution date, the request had been marked as 'overdue' by the system. If there are no sufficient balances available in the account till the end of the regular operations for the business day, the order was rejected by the depository system. Part delivery, to the extent of free balance available, had not taken place.
- (v) In the event of such rejection, the DP had intimated the BO that sufficient free balance was not available in his\their account for executing the transfer.

**(C) Authorisation for credit (receipt)**

To ensure the compliance of the following:

- (i) A BO executing purchases in the depository segment is required to give a credit authorisation to its DP, in case no standing instruction is given.
- (ii) The buying BO submitted request to the DP to transfer securities to its own account.
- (iii) On receipt of the request, the DP verified that the form was duly filled in and in case of signature difference the DP had not processed the request.
- (iv) The DP entered the request in the DPM.
- (v) In the event of rejection, the DP intimated the same to the BO.

- (vi) Status of the request was automatically updated in the instruction details stored in the DPM.
- (vii) The DP had complied with the date and time stamping requirement of the Depository.

#### **7. Off Market Trades**

To check that :

- (i) The transferer/delivering client has submitted a request to DP in prescribed form for transferring balance from its account to another account.
- (ii) On receipt of the request, the DP has verified that the form is duly filled in and signed. If the form was found in order the DP entered the request in DPM.

#### **8. Transmission**

##### **(A) *In case of death of the sole holder, for transmission of securities check that :***

- (i) The legal heir(s) or legal representative(s) of such securities had made a request, in the prescribed form, to the DP for transmitting the balances lying in the account of the deceased to their account. (A single request would be sufficient for all the securities held in the deceased's account).
- (ii) The following documents were submitted along with the request for transmission:
  - (a) A copy of the death certificate duly notarized / attested by a gazetted officer;
  - (b) A copy of the succession certificate duly Notarised or by a Gazetted Officer or an order of a Court of competent jurisdiction where the deceased had not left a Will; or
  - (c) A copy of the Probate or Letter of Administration duly Notarised/ or attested by a Gazetted Officer.

Where the market value of the securities held in each of the accounts of the deceased as on the date of application for transmission had not exceeded a particular prescribed amount request for transmission were either accompanied by:

- (i) A original copy of death certificate duly Notarised/attested by a gazetted officer;
- (ii) Letter of Indemnity duly supported by a guarantee of an independent surety acceptable to the participant, made on appropriate non-judicial stamp paper;



- (iii) An affidavit made on appropriate non-judicial stamp paper; and
- (iv) No objection certificate(s) from all the legal heir(s) who do not object to such transmission.

After effecting the transmission, the participant had closed the account of the deceased.

**(B) Transmission in Case of Death, Lunacy, Bankruptcy, or Insolvency of One or More of the Joint Holders (not specified in CDSL)**

In the event of death, lunacy, bankruptcy, or insolvency of one or more of the holders in a joint account, check that:

- (i) The surviving holder(s) had requested the DP to transmit the balances lying in the client account to the individual(s) account.
- (ii) The request for transmission had been made to the DP in the prescribed form along with a copy of the death certificate attested by the Notary public or by a Gazetted Officer.
- (iii) On receiving such a request, the DP had verified the death certificate of deceased holder and the signature(s) of the surviving client(s).
- (iv) The DP had effected transfer of the balances to the account in the name of the surviving client(s) and closed the old account held in the name of joint holders including the deceased holder after being fully satisfied on all aspects.

**9. Returns to Depository**

To ensure that the DP has submitted the following returns to the depository within the time limits specified:

- (i) Net worth certificate computed in manner laid down in the NSDL Business Rules/CDSL Bye-laws duly certified by a Chartered Accountant and audited annual accounts of the DP;
- (ii) In case the DP is a clearing member of the Clearing Corporation, the details regarding any suspension/termination or defaults or any disputes in relation to its dealings with such Clearing Corporation;
- (iii) Number of complaints received from BOs their nature, status and manner of redressal once in every month;
- (iv) In case of CM-DP, it has informed the Depository when the aggregate market value of securities exceeds the limits specified by SEBI;

- (v) Submission of charge structure of DP on an annual basis;
- (vi) Annual report to the depository.
- (vii) Change in shareholding & directors resulting in change of control/ not resulting in change of control is required to be intimated to NSDL and if applicable NOC is to be obtained.

#### **10. Grievance Redressal Mechanism**

To check that:

- (i) The DP has redressed the grievances within thirty days of receipt.
- (ii) The DP has submitted report about the disposal of complaints to Depository giving details of the number of complaints received, their nature, status and manner of redressal on a monthly basis.

#### **11. Collateral security**

To ensure that the DP:

- (i) Provided on demand, collateral or additional collateral to the depository;
- (ii) Had not created or permitted the creation of any mortgage, charge or other encumbrance, overall on any of the assets provided as collateral.

#### **12. Assignment of Business**

To check that the DP had not assigned its business as a DP to any other person except with the prior approval of the Depository.

#### **13. Freezing of Account**

To ensure that the DP:

- (i) Froze the account of a BO maintained with it or a particular ISIN in his/its account, or specific number of securities held under an ISIN in his/its account, only on written instructions received by it from the BO in the form specified under the Operating Instructions/ Business Rules;
- (ii) Froze the account of a BO and/or ISIN and/or specific number of securities of a BO, on written instruction received by it from the Depository pursuant to the orders of the Central or State Government, SEBI or any order passed by the Court, Tribunal, or any Statutory Authority in this regard.

#### **14. Closure of Account**

Check that :

- (i) The BO had made an application, in the format specified to that effect.

- (ii) That if no balances are standing to credit in the account of the BO the account was closed.
- (iii) In case any balances existed, then the account was closed in the following manner:
  - (a) by rematerialisation of all the existing balances in the account; and/or;
  - (b) by transferring the security balances to the other account of the BO held either with the same DP or with a different DP.
- (iv) The DP had ensured that all pending transactions as well as suspended accounts had been adjusted before closing such account. After ensuring that there were no balances in the BO account, the DP had executed the request for closure of the BO's account.
- (v) In case account closure is initiated by the DP whether DP gives 30 days notice to BO before closing accounts and follows operating instructions in this regard.

## **15. Pledge and Hypothecation**

### ***(A) Creation of Pledge***

To check that :

- (i) An application was made by the BO for such purpose;
- (ii) The Pledgor and pledgee both have an account with the same Depository;
- (iii) DP had noted in its records the notice of pledge/executed the instructions of the pledge only after it was satisfied that the securities were available for pledge;
- (iv) DP had confirmed creation or non-creation pledge to the Depository.

### ***(B) Cancellation of Pledge***

To check that :

- (i) An application was made by the BO in this regard;
- (ii) DP had noted in its records the cancellation of the entry of pledge and forwarded the request to the Depository;
- (iii) DP of pledgee gave confirmation to the Depository;
- (iv) DP informed the pledgor/pledgee accordingly of the entry of cancellation of pledge.

### ***(C) Invocation of Pledge/Hypothecation by Pledgee***

In case the pledger failed to discharge his obligations under the

agreement of pledge/hypothecation, the pledgee has invoked pledge/hypothecation to claim the beneficial ownership of the pledged/hypothecated securities. In such a case check that:

- (i) The pledgee had submitted a request in the prescribed form to his participant for invoking the pledge/hypothecation.
- (ii) The participant had verified the form for its completeness and validity and if not found in order had returned the same to the pledgee for rectification.
- (iii) If the form was found to be in order, the participant had accepted the form for processing and had issued an acknowledgment for the same to the pledgee.
- (iv) The participant had also compared the details on the form with the details displayed at DPM against the pledge/hypothecation instruction number.
- (v) The participant had entered the invocation request details in DPM against the pledge/hypothecation instruction number as per the instructions given in the form and released the instruction to the depository.
- (vi) In case of Hypothecation, check whether confirmation from Hypothecaiton has been received for invocation.

#### **16. Lending and Borrowing of Securities**

Check that any beneficial owner intending to lend or borrow is in accordance with SEBI (Securities Lending Scheme), 1997.

#### **17. Records to be maintained by the DPs**

- (A) DP had maintained the following records relating to its business for a period of ten years :
  - (i) Delivery/Receipt Instructions given by its BOs.
  - (ii) Forms submitted by the BOs to the DP for:
    - (a) Opening of accounts with the DP, however in the case of active accounts the same cannot be destroyed;
    - (b) Closing of accounts with the DP;
    - (c) Freezing of accounts with the DP, however the same is to be maintained for ten years or upto the time of defreezing whichever is later;
    - (d) Defreezing of accounts with the DP.
  - (iii) Copies of correspondence from the BOs on the basis of which BOs details were updated in the depository system;

- (iv) Record of all actions taken on the exception reports, generated by the system;
  - (v) A register showing details of grievances received from the BOs and their present status. The following details may be specified in this regard :
    - (a) name of the BO;
    - (b) reference number of the BO;
    - (c) date;
    - (d) particulars of complaints;
    - (e) actions taken by the DP;
  - (vi) If the matter is referred to arbitration, then the particulars including the present status thereof;
  - (vii) Instructions received from the Clearing Member to transfer balances from the Pool account to the Delivery account of the Clearing Member in order to enable it to meet its obligations to the Clearing Corporation;
  - (viii) Instructions from the clearing member authorising the transfer of securities from the pool account of the clearing member to the accounts of its BOs;
  - (ix) The forms received in respect of pledge of securities;
  - (x) The forms received in respect of transmission of securities;
  - (xi) The Power of Attorney has been maintained till the account is active;
  - (xii) Forms received in respect of lending/borrowing of securities.
- (B) The following records pertaining to dematerialisation and rematerialisation of securities were kept by the DPs :
- (i) Dematerialisation request form (DRF) filled by the BO;
  - (ii) Certificate details of securities sent for dematerialisation;
  - (iii) Proof of deliveries of DRF and securities to the Issuer or its Registrar and Transfer Agent;
  - (iv) Objection memo and certificate details of the rejected securities against the DRN;
  - (v) Rematerialisation request form submitted by the BO;
  - (vi) Proof of delivery of RRF sent to the Issuer or its Registrar and Transfer Agent.
- (C) The DP had intimated to the Depository, the place where the above records are kept and available for audit/inspection.

- (D) The above requirements relating to maintenance of records apply not only to the records of the DP's principal office but also any branch office and to any nominee company owned or controlled by the DP for the purpose of conducting the business of the DP relating to the operations of the Depository.

### **18. Disclosure/Publication of Information**

To ensure that DP had not by itself or through any other person(s) on its behalf published, supplied, showed or made available to any other person or reprocessed, retransmitted, stored or used any information provided by the Depository for any purpose other than in the ordinary course of its business as a user of the depository services, except with the explicit approval of Depository.

### **19. Supervision by DP**

To ensure that the DP:

- (i) Establishes, maintains and enforces procedures to supervise its business and to supervise the activities of its employees, that are reasonably designed to achieve compliance with the Bye-Laws, Business Rules, Notifications and Directions issued thereunder by the Depository.
- (ii) Maintains an internal record of the names of all persons who are designated as supervisory personnel and dates from which such designation is or was effective. Such records are/were preserved for a period of not less than three years.
- (iii) Conducts a review, at least annually, of its business relating to operations of Depository, which is reasonably designed to assist in detecting and preventing violation of and achieving compliance of the Bye-Laws and Business Rules of the Depository.
- (iv) Brings to the notice of its BOs, and other DPs, any indictments, penalties etc. imposed on it by Depository or any other regulatory authority within seven days from the date of such indictment or order.
- (v) Brings to the notice of the Depository, any indictments or any other orders that may have been passed against it by any regulatory authority within 7 days from the date of such order or indictment.
- (vi) Nominate a senior executive as Compliance Officer.

### **20. Code of Ethics for DPs**

The Business Rules of Depository provide the general principles and

operational principles for Depository/DPs. The Business Rules of NSDL provide as under:

**(A) General Principles**

- (i) *Professionalism* : A DP in the conduct of its business shall observe high standards of commercial honour and just and equitable principles of business.
- (ii) *Adherence to Business Rules* : DP shall adhere to the Bye-laws and Business Rules of the Depository and shall comply with such operational parameters, rulings, notices, guidelines and instructions of the relevant authority as may be applicable from time to time.
- (iii) *Honesty and fairness* : In conducting its business activities, a DP shall act honestly and fairly in the best interests of its BOs.
- (iv) *Capabilities* : A DP shall have and employ effectively the resources and procedures which are needed for the proper performance of its business activities.

**(B) Operational Principles**

- (i) DPs shall ensure that any employee who commits the DP to a transaction has the necessary authority to do so;
- (ii) DPs shall ensure that employees are adequately trained in operating in the relevant areas they are assigned to and are aware of their own, and their organisation's responsibilities as well as the relevant statutory Acts governing the DP, the Bye-Laws and the Business Rules including any additions or amendments thereof;
- (iii) No DP or person associated with a DP shall make improper use of BOs' securities or funds;
- (iv) While performing any transaction in the BO accounts, the DP must ensure that, great care is taken at all times not to misrepresent in any way, the nature of the transaction;
- (v) No DP shall exercise any discretionary power in a BO's account unless such BO has given prior written authorisation in this regard.
- (vi)
  - (a) Whether the DP has appointed 'Principal Officer' as required under PMLA Act ?
  - (b) Whether the DP has prepared a proper policy framework as per the guidelines of PMLA ?
  - (c) Whether DP is compliant with PMLA guidelines and latest SEBI Master Circular.

**(C) General Guidelines**

No DP shall shield or assist or omit to report about any DP whom it has known to have committed a breach or evasion of any Rules, Bye-laws, or

Regulations of the Depository or of any resolution, order, notice or direction thereunder of the Executive Committee or the Managing Director or any Committee or officer of the Depository authorised in that behalf.

## 22. Branch of Depository Participants

- (i) Whether the scope of activity of the live connected branches/ service centres is clearly documented and adhered to?
- (ii) Whether all the live connected branches / service centres of the DP display the name of the DP prominently?
- (iii) Whether at least one staff member of each live connected branch DP is on the payroll of the main DP?
- (iv) Whether service centers have adequate infrastructure for the current as well as expected level of operations?
- (v) Whether the service centres of the DP have adequate provisions for safety and security of the documents pertaining to the BOs?
  - (v) a) Whether any service centre (including service centre of live connected branches) is being managed by franchisee?
  - b) Whether the Franchisee (service centre) is duly registered with regulatory authority such as a recognized stock exchange, SEBI, RBI or IRDA?
  - c) Whether DP has signed an agreement with the franchisee, covering services that can be offered by the franchisee and the same is kept on record?
  - d) Whether the service centre (franchisee) is carrying out only those functions which are not prohibited by Depository (In-person verification, KYC verification and verification of delivery instruction slips cannot be done by franchisee).

All other branches of the DP offering depository services should be included for audit purpose. The internal auditor may consider ranking the branches on the basis of performance, compliance, and other operational related issues, stationery control, manpower planning, time management, etc. and other steps taken by the DP's branches in helping the management to improve performance and ensure compliance of the standard operational procedures as stipulated in the Bye Laws, Business Rules, circulars, notices, directives, as may be issued from time to time by NSDL/CDSL/SEBI.

**(Note :** Although efforts have been made to give an exhaustive checklist, however, there could be circumstances requiring the auditor to check further items which he may deem necessary for the purpose of his audit.)



**Electronic submission of Internal/Concurrent Audit Report and Compliance Certificate:**

Procedure for the submission of the internal/concurrent audit report and compliance certificate electronically is as under:

**Procedure****1. Internal / Concurrent Audit Report**

- 1.1. The auditors must sign the report using a class II or class III digital signature certificate (DSC) issued in his/her name and valid in terms of provisions of Information Technology Act, 2000 and rules framed there under.
- 1.2. Audit report must be prepared in MS Excel format as per prevalent guidelines. Annexures, if any, must also be prepared in MS Excel format.
- 1.3. The auditor may digitally sign the report using the features available in MS Excel itself. Annexures, if any, may be part of the same file (as different sheet in same file) or may be prepared as a separate Excel file. In case Annexures are prepared as separate Excel file, they need to be digitally signed individually.

**2. Compliance Certificate**

- 2.1. The Compliance Officer / Alternate Compliance Officer of the Participant must sign the compliance certificate using a class II or class III DSC issued in his/her name and valid in terms of provisions of Information Technology Act, 2000 and rules framed thereunder.
  - 2.2. Compliance certificate may be prepared as a MS Excel or MS Word or PDF file as per prevalent guidelines .
  - 2.3. The Compliance Officer / Alternate Compliance Officer may digitally sign using the features available in MS Excel / Word or some other specialized software. Annexures, if any, may be part of the same file or may be prepared as a separate Excel / Word / PDF file. In case, Annexures are prepared as a separate file(s), they need to be digitally signed individually.
- 3.** The holder of the DSC shall give following declaration as part of the audit report/compliance certificate -

*"I hereby declare that digital signature certificate being used by me for signing this document is a valid digital signature certificate in terms of provisions of Information Technology Act, 2000 and rules framed thereunder on this date and that it has not been revoked by the issuing authority till this date."*

4. The Compliance Officer / Alternate Compliance Officer / authorised person of Participant shall forward the digitally signed audit report and/ or certificate (and Annexures, if any) to the Depository from an email ID which is present in the database maintained by Participant Interface Department of the depository.

### **Outsourcing of Activities by Intermediaries**

The intermediaries resort to outsourcing with a view to reduce costs, and at times, for strategic reasons. Outsourcing may be defined as the use of one or more than one third party – either within or outside the group - by a registered intermediary to perform the activities associated with services which the intermediary offers. SEBI Regulations for various intermediaries require that they shall render at all times high standards of service and exercise due diligence and ensure proper care in their operations.

The risks associated with outsourcing may be operational risk, reputational risk, legal risk, country risk, strategic risk, exit-strategy risk, counter party risk, concentration and systemic risk.

The intermediaries desirous of outsourcing their activities shall not, however, outsource their core business activities and compliance functions. A few examples of core business activities may be – execution of orders and monitoring of trading activities of clients in case of stock brokers; dematerialisation of securities in case of depository participants; investment related activities in case of Mutual Funds and Portfolio Managers. Regarding Know Your Client (KYC) requirements, the intermediaries shall comply with the provisions of SEBI {KYC (Know Your Client) Registration Agency} Regulations, 2011 and Guidelines issued thereunder from time to time.

Reporting To Financial Intelligence Unit (FIU) - The intermediaries shall be responsible for reporting of any suspicious transactions / reports to FIU or any other competent authority in respect of activities carried out by the third parties.

Need for Self Assessment of existing Outsourcing Arrangements – In view of the changing business activities and complexities of various financial products, intermediaries shall conduct a self assessment of their existing outsourcing arrangements within a time bound plan, not later than six months from the date of issuance of this circular and bring them in line with the requirements of the guidelines/principles.

SEBI vide circular CIR/MIRSD/24/2011 dated December 15, 2011 has prescribed the following principles for outsourcing for intermediaries. The Depository Participant Outsourcing their activities should abide by the principles laid down by SEBI.

### **PRINCIPLES FOR OUTSOURCING FOR INTERMEDIARIES**

1. **An intermediary seeking to outsource activities shall have in place a comprehensive policy to guide the assessment of**

**whether and how those activities can be appropriately outsourced. The Board/ partners (as the case may be) {hereinafter referred to as the “the Board”} of the intermediary shall have the responsibility for the outsourcing policy and related overall responsibility for activities undertaken under that policy.**

- 1.1 The policy shall cover activities or the nature of activities that can be outsourced, the authorities who can approve outsourcing of such activities, and the selection of third party to whom it can be outsourced. For example, an activity shall not be outsourced if it would impair the supervisory authority’s right to assess, or its ability to supervise the business of the intermediary. The policy shall be based on an evaluation of risk concentrations, limits on the acceptable overall level of outsourced activities, risks arising from outsourcing multiple activities to the same entity, etc.
- 1.2 The Board shall mandate a regular review of outsourcing policy for such activities in the wake of changing business environment. It shall also have overall responsibility for ensuring that all ongoing outsourcing decisions taken by the intermediary and the activities undertaken by the third-party, are in keeping with its outsourcing policy.

**2. The intermediary shall establish a comprehensive outsourcing risk management programme to address the outsourced activities and the relationship with the third party.**

- 2.1 An intermediary shall make an assessment of outsourcing risk which depends on several factors, including the scope and materiality of the outsourced activity, etc. The factors that could help in considering materiality in a risk management programme include-
  - a. The impact of failure of a third party to adequately perform the activity on the financial, reputational and operational performance of the intermediary and on the investors / clients;
  - b. Ability of the intermediary to cope up with the work, in case of non performance or failure by a third party by having suitable back-up arrangements;
  - c. Regulatory status of the third party, including its fitness and probity status;
  - d. Situations involving conflict of interest between the intermediary and the third party and the measures put in place by the intermediary to address such potential conflicts, etc.

- 2.2 While there shall not be any prohibition on a group entity / associate of the intermediary to act as the third party, systems shall be put in place to have an arm's length distance between the intermediary and the third party in terms of infrastructure, manpower, decision-making, record keeping, etc. for avoidance of potential conflict of interests. Necessary disclosures in this regard shall be made as part of the contractual agreement. It shall be kept in mind that the risk management practices expected to be adopted by an intermediary while outsourcing to a related party or an associate would be identical to those followed while outsourcing to an unrelated party.
  - 2.3 The records relating to all activities outsourced shall be preserved centrally so that the same is readily accessible for review by the Board of the intermediary and / or its senior management, as and when needed. Such records shall be regularly updated and may also form part of the corporate governance review by the management of the intermediary.
  - 2.4 Regular reviews by internal or external auditors of the outsourcing policies, risk management system and requirements of the regulator shall be mandated by the Board wherever felt necessary. The intermediary shall review the financial and operational capabilities of the third party in order to assess its ability to continue to meet its outsourcing obligations.
- 3. The intermediary shall ensure that outsourcing arrangements neither diminish its ability to fulfill its obligations to customers and regulators, nor impede effective supervision by the regulators.**
- 3.1 The intermediary shall be fully liable and accountable for the activities that are being outsourced to the same extent as if the service were provided in-house.
  - 3.2 Outsourcing arrangements shall not affect the rights of an investor or client against the intermediary in any manner. The intermediary shall be liable to the investors for the loss incurred by them due to the failure of the third party and also be responsible for redressal of the grievances received from investors arising out of activities rendered by the third party.
  - 3.3 The facilities / premises / data that are involved in carrying out the outsourced activity by the service provider shall be deemed to be those of the registered intermediary. The intermediary itself and Regulator or the persons authorized by it shall have the right to access the same at any point of time.
  - 3.4 Outsourcing arrangements shall not impair the ability of SEBI/

SRO or auditors to exercise its regulatory responsibilities such as supervision/inspection of the intermediary.

**4 . The intermediary shall conduct appropriate due diligence in selecting the third party and in monitoring of its performance.**

- 4.1 It is important that the intermediary exercises due care, skill, and diligence in the selection of the third party to ensure that the third party has the ability and capacity to undertake the provision of the service effectively.
- 4.2 The due diligence undertaken by an intermediary shall include assessment of:
  - (a) third party's resources and capabilities, including financial soundness, to perform the outsourcing work within the timelines fixed;
  - (b) compatibility of the practices and systems of the third party with the intermediary's requirements and objectives;
  - (c) market feedback of the prospective third party's business reputation and track record of their services rendered in the past;
  - (d) level of concentration of the outsourced arrangements with a single third party; and
  - (e) the environment of the foreign country where the third party is located.

**5. Outsourcing relationships shall be governed by written contracts/ agreements / terms and conditions (as deemed appropriate) {hereinafter referred to as "contract"} that clearly describe all material aspects of the outsourcing arrangement, including the rights, responsibilities and expectations of the parties to the contract, client confidentiality issues, termination procedures, etc.**

- 5.1 Outsourcing arrangements shall be governed by a clearly defined and legally binding written contract between the intermediary and each of the third parties, the nature and detail of which shall be appropriate to the materiality of the outsourced activity in relation to the ongoing business of the intermediary.
- 5.2 Care shall be taken to ensure that the outsourcing contract:
  - a. clearly defines what activities are going to be outsourced, including appropriate service and performance levels;
  - b. provides for mutual rights, obligations and responsibilities of the intermediary and the third party, including indemnity by the parties;

- c. provides for the liability of the third party to the intermediary for unsatisfactory performance/other breach of the contract
- d. provides for the continuous monitoring and assessment by the intermediary of the third party so that any necessary corrective measures can be taken up immediately, i.e., the contract shall enable the intermediary to retain an appropriate level of control over the outsourcing and the right to intervene with appropriate measures to meet legal and regulatory obligations;
- e. includes, where necessary, conditions of sub-contracting by the third-party, i.e. the contract shall enable intermediary to maintain a similar control over the risks when a third party outsources to further third parties as in the original direct outsourcing;
- f. has unambiguous confidentiality clauses to ensure protection of proprietary and customer data during the tenure of the contract and also after the expiry of the contract;
- g. specifies the responsibilities of the third party with respect to the IT security and contingency plans, insurance cover, business continuity and disaster recovery plans, force majeure clause, etc.;
- h. provides for preservation of the documents and data by third party ;
- i. provides for the mechanisms to resolve disputes arising from implementation of the outsourcing contract;
- j. provides for termination of the contract, termination rights, transfer of information and exit strategies;
- k. addresses additional issues arising from country risks and potential obstacles in exercising oversight and management of the arrangements when intermediary outsources its activities to foreign third party. For example, the contract shall include choice-of-law provisions and agreement covenants and jurisdictional covenants that provide for adjudication of disputes between the parties under the laws of a specific jurisdiction;
- l. neither prevents nor impedes the intermediary from meeting its respective regulatory obligations, nor the regulator from exercising its regulatory powers; and
- m. provides for the intermediary and /or the regulator or the

persons authorized by it to have the ability to inspect, access all books, records and information relevant to the outsourced activity with the third party.

**6. The intermediary and its third parties shall establish and maintain contingency plans, including a plan for disaster recovery and periodic testing of backup facilities.**

- 6.1 Specific contingency plans shall be separately developed for each outsourcing arrangement, as is done in individual business lines.
- 6.2 An intermediary shall take appropriate steps to assess and address the potential consequence of a business disruption or other problems at the third party level.  
Notably, it shall consider contingency plans at the third party; co-ordination of contingency plans at both the intermediary and the third party; and contingency plans of the intermediary in the event of non-performance by the third party.
- 6.3 To ensure business continuity, robust information technology security is a necessity. A breakdown in the IT capacity may impair the ability of the intermediary to fulfill its obligations to other market participants/clients/regulators and could undermine the privacy interests of its customers, harm the intermediary's reputation, and may ultimately impact on its overall operational risk profile. Intermediaries shall, therefore, seek to ensure that third party maintains appropriate IT security and robust disaster recovery capabilities.
- 6.4 Periodic tests of the critical security procedures and systems and review of the backup facilities shall be undertaken by the intermediary to confirm the adequacy of the third party's systems.

**7. The intermediary shall take appropriate steps to require that third parties protect confidential information of both the intermediary and its customers from intentional or inadvertent disclosure to unauthorised persons.**

- 7.1 An intermediary that engages in outsourcing is expected to take appropriate steps to protect its proprietary and confidential customer information and ensure that it is not misused or misappropriated.
- 7.2 The intermediary shall prevail upon the third party to ensure that the employees of the third party have limited access to the data handled and only on a "need to know" basis and the third party shall have adequate checks and balances to ensure the same.

7.3 In cases where the third party is providing similar services to multiple entities, the intermediary shall ensure that adequate care is taken by the third party to build safeguards for data security and confidentiality.

**8. Potential risks posed where the outsourced activities of multiple intermediaries are concentrated with a limited number of third parties.**

In instances, where the third party acts as an outsourcing agent for multiple intermediaries, it is the duty of the third party and the intermediary to ensure that strong safeguards are put in place so that there is no co-mingling of information /documents, records and assets.

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**FORMAT OF CDSL AUDIT REPORT ON INTERNAL  
AUDIT AND CONCURRENT AUDIT OF RISK PRONE  
AREAS OF DEPOSITORY PARTICIPANTS\***

**Name & Address of the Depository Participant :**

**DP-ID :**

**Date(s) of Internal Audit :**

**Period for which internal audit is conducted:**

**Name, Telephone number and Email ID of the Compliance Officer:**

**Name of the Audit firm and officials conducting internal audit:**

Number of accounts opened during the period under Audit	
Number of accounts closed during the period under audit.	
(a) Initiated by BOs	
(b) Initiated by DP	
Number of active accounts	
Total number of transmissions	

**Sampling Plan**

<i>Audit Area</i>	<i>Sample Size (in actual numbers)</i>	<i>Sample Size (%)</i>
Service Centres visited		
Account opening		
Account modifications		
Account closure initiated by BO		
Account closure initiated by DP		
Dematerialisation		
Instructions		
Off market, on market, inter-depository, early pay in instructions		

*Source : CDSL communique CDSL/A,I & C/DP/POLICY/2628 dated September 8, 2011.*

Pledge, unpledge & confiscation instructions		
Rematerialisation instructions		
Transmissions		
<b>Freeze &amp; Unfreeze</b>		

**Place of keeping records (The Main DP to submit information for all its live connected branch DPs also).**

Type of documents will be either "ALL" or "specific type of documents" like account opening forms, Instruction slips etc.

<i>DP ID</i>	<i>DP IDs at which documents are being stored</i>	<i>Type of documents stored</i>	<i>Period (From-To)</i>	<i>Remarks</i>

*(The checklist points which are not applicable should be marked as 'not applicable' the reason as to why the same is N.A needs to be mentioned in the remark column. The number of instances where non-compliance has been observed should be stated under the column 'No. of instances')*

**(1) Account Opening and Account Modifications:**

Sr. No.	Particulars checked	Comments	No. of instances	Remarks of internal auditor
1	(i) Whether proof of identity is collected from all holders of a non body corporate as per SEBI & CDSL requirements?	<input type="checkbox"/> Yes <input type="checkbox"/> No		
	(ii) Whether "In person verification" procedure is done as per operating instruction 2.4.8 in case of demat accounts opened and record of the same is maintained?	<input type="checkbox"/> Yes <input type="checkbox"/> No		
	(iii) Whether Proof of Address is collected from all the holders as per SEBI & CDSL requirement and the same is verified against originals?	<input type="checkbox"/> Yes <input type="checkbox"/> No		
	(iv) If correspondence address of third party is accepted, whether proof of identity of such third party is on record ?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N.A.		
	(v) If the Correspondence address is different from the permanent address, whether the procedure prescribed by CDSL is followed?	<input type="checkbox"/> Yes <input type="checkbox"/> No		
	(vi) Whether Stamp of "Verified with Original" is affixed on proof of address document?	<input type="checkbox"/> Yes <input type="checkbox"/> No		
	(vii) Whether all KYC documents are self attested by the BO(s) as per operating instructions 2.4.14?	<input type="checkbox"/> Yes <input type="checkbox"/> No		
2	(a) Whether necessary documents / information as prescribed by CDSL (as per DP Operating Instructions) have been collected from different types of clients such as individual investors, CMs, Corporate, HUF, NRIs, OCBs, trusts, etc?	<input type="checkbox"/> Yes <input type="checkbox"/> No		
	(b) Whether the information on "Financial Status" and 'Nature of Business" of clients is obtained in the Account opening form (AOF)?	<input type="checkbox"/> Yes <input type="checkbox"/> No		
3	(a) Whether the requirement of obtaining and verifying PAN card details has been complied with and Stamp of "PAN Verified" has been affixed ?	<input type="checkbox"/> Yes <input type="checkbox"/> No		
	(b) Whether DP has correctly entered PAN details in CDAS?	<input type="checkbox"/> Yes <input type="checkbox"/> No		
4	Whether all disproportionately high number of existing accounts with same or similar names and / or same address and / or with the same bank account details was checked for genuineness?	<input type="checkbox"/> Yes <input type="checkbox"/> No		

Sr. No.	Particulars checked	Comments	No. of instances	Remarks of internal auditor
5	(a) Whether any suspicious account was found by the DP?	<input type="checkbox"/> Yes <input type="checkbox"/> No		
	(b) Whether appropriate action was taken by the DP if any suspicious account was found ?	<input type="checkbox"/> Yes <input type="checkbox"/> No		
6	(a) Whether agreement is duly signed by BO and DP and executed before account is activated in CDAS?	<input type="checkbox"/> Yes <input type="checkbox"/> No		
	(b) Whether agreement executed is in order in all respects ?	<input type="checkbox"/> Yes <input type="checkbox"/> No		
	(c) Whether any alteration is done in the contents of agreement prescribed by CDSL ?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N.A.		
	(d) Whether DP has executed any supplementary agreement undertaking, which has clauses contradictory to CDSL prescribed agreement ?	<input type="checkbox"/> Yes <input type="checkbox"/> No		
	(e) Whether DP-CM agreement has been executed for CMs of BSE and DP-BO agreement for exchanges other than BSE?	<input type="checkbox"/> Yes <input type="checkbox"/> No		
7	Whether the DP has opened any PMS Demat account?	<input type="checkbox"/> Yes <input type="checkbox"/> No		
	If yes whether the DP has ensured the compliance of communiqués issued by CDSL? (Refer communiqués 1622, 1633 & 1931)	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N.A.		
8	Whether the procedures prescribed by CDSL for opening & operating the AMC CM accounts for settlement of Mutual Fund Units are being complied with? [Refer operating instruction 2.3.7 (c) ]	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N.A.		
9	Whether the DP has opened any account of illiterate / disabled person?	<input type="checkbox"/> Yes <input type="checkbox"/> No		
	If yes, whether the procedures prescribed by CDSL for opening & operating the account of illiterate person and disabled persons are being complied with ?	<input type="checkbox"/> Yes <input type="checkbox"/> No		
10	Whether there is adequate mechanism to ensure that the details of account opening forms are entered correctly in the CDAS ?	<input type="checkbox"/> Yes <input type="checkbox"/> No		
11	Whether BO signatures have been appropriately scanned in CDAS ?	<input type="checkbox"/> Yes <input type="checkbox"/> No		

<i>Sr. No.</i>	<i>Particulars checked</i>	<i>Comments</i>	<i>No. of instances</i>	<i>Remarks of internal auditor</i>
12	Whether nomination is made as per the procedure prescribed in the DP Operating Instructions 3.4.2 and nomination form is duly filled, executed and same has been appropriately entered in to the CDAS and updated in nomination register ?	<input type="checkbox"/> Yes <input type="checkbox"/> No		
13	Whether modification to account details is done only after accepting account modification form/letters duly signed by the BOs and the same has been updated in CDAS ?	<input type="checkbox"/> Yes <input type="checkbox"/> No		
14	In case of change of address of the BO, (a) Whether proof of new address is obtained? (b) Confirmation letter is sent to the BO at old as well as at the new address ?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Yes <input type="checkbox"/> No		
15	In case of change of signature of the BO, whether procedure as prescribed by CDSL as per operating instructions 3.4.8 & 3.4.14 is followed?	<input type="checkbox"/> Yes <input type="checkbox"/> No		
16	Whether bank account details with proper proof has been obtained and entered in CDAS as per operating instructions 2.4.25 ?	<input type="checkbox"/> Yes <input type="checkbox"/> No		
17	Whether the DP has opened any partnership/ proprietorship account in the name of the partnership/ proprietorship firm except for commodities & CM Pool/ /Principal or Partnership-LLP A/c ?	<input type="checkbox"/> Yes <input type="checkbox"/> No		
18	(a) Whether the DP has opened any account for holding commodities ?  If yes whether agreement is executed as per Communiqué 433? (b) Whether any security other than commodities is/was held in such an account?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Yes <input type="checkbox"/> No		
19	Whether accounts opened with sub-status Promoter, contain any holding other than promoter's holding ?	<input type="checkbox"/> Yes <input type="checkbox"/> No		

**(2) Dematerialization / Destatementization:**

<i>Sr. No.</i>	<i>Particulars checked</i>	<i>Comments</i>	<i>No. of instances</i>	<i>Remarks of internal auditor (if any)</i>
1	(a) Whether the Demat requests are accepted and processed as per procedure laid down by CDSL ?	<input type="checkbox"/> Yes <input type="checkbox"/> No		
	(b) Whether DP has a system of inward of Demat request (DRF) / MF-DRF received which clearly gives information about date of receipt of DRF from BO?	<input type="checkbox"/> Yes <input type="checkbox"/> No		
2	(a) Whether there is a system to affix a stamp "surrendered for dematerialization along with DP name, DP ID and BO ID" and mutilate certificates as prescribed by CDSL?	<input type="checkbox"/> Yes <input type="checkbox"/> No		
	(b) Whether DP has sent securities for dematerialization to Registrar & Transfer Agents / Issuers after defacing and mutilating certificates.	<input type="checkbox"/> Yes <input type="checkbox"/> No		
3	Whether the DP has an adequate system for keeping the physical securities under safe custody till dispatch to the Issuer / RTA/ AMC?	<input type="checkbox"/> Yes <input type="checkbox"/> No		
4	Whether demat / destat requests received from BOs are sent to the Issuer/RTA/AMC within seven days from the date of receipt of demat / destat request ?	<input type="checkbox"/> Yes <input type="checkbox"/> No		
5	Whether there is a proper procedure for recording of dispatch details such as dispatch ref. no., dispatch date, name of courier etc.?	<input type="checkbox"/> Yes <input type="checkbox"/> No		
6	(a) Whether any demat request / destat was rejected due to errors attributable to the DP?	<input type="checkbox"/> Yes <input type="checkbox"/> No		
	(b) Whether the DP has a system in place to analyze the reasons for demat / destat rejections, demat / destat delays and taking corrective actions?	<input type="checkbox"/> Yes <input type="checkbox"/> No		
7	(a) Whether the DP has returned the certificates along with rejection letters to the concerned BO within 7 days from receipt of rejected certificate and letter?	<input type="checkbox"/> Yes <input type="checkbox"/> No		
	(b) Whether proper records of such dispatch such as DRN, dispatch ref no., dispatch	<input type="checkbox"/> Yes <input type="checkbox"/> No		

<i>Sr. No.</i>	<i>Particulars checked</i>	<i>Comments</i>	<i>No. of instances</i>	<i>Remarks of internal auditor (if any)</i>
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date, name of courier / signature of BO have been kept ?

8 Whether Transposition form is filled along with DRF in case the BO names in the certificate are not in the same order as per the BO account details in the system?  Yes  No

9 Whether Transmission-cum-demat requests are processed as per the prescribed procedure?  Yes  No

**(3) Instruction Slip (Off-market, On-market, Inter-depository, and Early pay-in):**

<i>Sr. No.</i>	<i>Particulars checked</i>	<i>Comments</i>	<i>No. of instances</i>	<i>Remarks of internal auditor (if any)</i>
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1 (a) Whether there is proper inventory control mechanism for instruction slip booklets?  Yes  No

(b) Whether physical inventory is tallied with the inventory records at prescribed intervals ?  Yes  No

2 Whether the DIS issued to BOs have pre-stamped BO ID and pre-printed serial number?  Yes  No

3 (a) Whether the first instruction slip booklet is being issued as per the procedure prescribed for the same?  Yes  No

(b) Whether there is system to issue delivery instruction booklets to the BOs based ONLY on the requisition slip which forms part of the earlier issued instruction slip booklet ?  Yes  No

(c) Whether such requisition slip has preprinted instruction slip serial number range of the booklet of which it forms a part ?  Yes  No

(d) If any instruction slip booklet is not issued on the basis of requisition slip, whether the procedure prescribed under operating instruction no. 6.5.1.12 is followed?  Yes  No

Sr. No.	Particulars checked	Comments	No. of instances	Remarks of internal auditor (if any)
4	(a) Whether loose delivery instruction slips are issued? (b) If yes, whether they are issued as per the prescribed procedure to the BOs ? (c) Whether DP has issued more than 10 loose DIS to any account holder in a financial year (April to March)?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Yes <input type="checkbox"/> No		
5	Whether a system is in place to affix the date and time of receipt stamp on DP's and BO's copy of DIS ?	<input type="checkbox"/> Yes <input type="checkbox"/> No		
6	Whether there is a system in place to suitably stamp the delivery instructions received beyond the prescribed deadlines ?	<input type="checkbox"/> Yes <input type="checkbox"/> No		
7	Whether there is control over issue of instruction slips to the BOs e.g. proper records of instruction slip serial numbers vis-à-vis account number ?	<input type="checkbox"/> Yes <input type="checkbox"/> No		
8	(a) Whether the instruction slip number is verified against the issue details at the time of receipt from the BO? (b) If yes, whether the slip number validation is done using the back office software?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Yes <input type="checkbox"/> No		
9	Whether provision for blocking of DIS serial numbers which are:- (a) already used Or (b) reported lost / misplaced / stolen exists?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Yes <input type="checkbox"/> No		
10	(a) Whether instructions are executed only on the basis of duly signed instruction slips? (b) Whether signatures on instruction slips are duly verified / matched before execution of instruction ?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Yes <input type="checkbox"/> No		
11	Whether digitally signed electronic instructions are processed & executed as per operating instructions 17.9 ?	<input type="checkbox"/> Yes <input type="checkbox"/> No		
12	Whether corrections / cancellation on the instruction slips, if any, are authenticated by all the joint holders / authorised signatories / POA holder if any ?	<input type="checkbox"/> Yes <input type="checkbox"/> No		



Sr. No.	Particulars checked	Comments	No. of instances	Remarks of internal auditor (if any)
13	Whether instruction slips are checked and signatures are verified by two officials (staff of the DP has to do the checker) separately for their correctness ?	<input type="checkbox"/> Yes <input type="checkbox"/> No		
14	Whether fax indemnity in prescribed format is obtained from BOs before accepting instructions through fax ?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N.A.		
15	Whether it is ensured that original instructions are received within three days in case fax instructions are accepted ?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N.A.		
16	Is there a system in place to prevent multiple execution of the same instruction, in case fax instructions are accepted ?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N.A.		
17	If the DP is accepting delivery instructions accompanied by annexures from the BO, whether the same has been prepared as per the procedure prescribed by CDSL ?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N.A.		
18	Whether DIS contains information on "Consideration" and "Reason/Purpose" in case of transfers from one BO account to another not related to market trades (i.e. off market transactions)	<input type="checkbox"/> Yes <input type="checkbox"/> No		
19	Whether blank columns have been struck off?	<input type="checkbox"/> Yes <input type="checkbox"/> No		
20	Whether the daily report with respect to High Value Transactions (including null report) is being generated by CDAS is stored by the Main and branch DPs? (communiqué no. 612 dated 30.11.2005)	<input type="checkbox"/> Yes <input type="checkbox"/> No		
21	Whether there is a system to ensure that DIS having transactions with value more than Rs. 5 lakhs are verified by a senior official and additionally checked by another employee (two step verification) as per operating instruction 6.5.4.5 ?	<input type="checkbox"/> Yes <input type="checkbox"/> No		
22	(a) Whether the DP has systems and procedures to conduct two step verification for transactions originating from dormant accounts ?	<input type="checkbox"/> Yes <input type="checkbox"/> No		
	(b) Whether the DP verifies such transactions	<input type="checkbox"/> Yes <input type="checkbox"/> No		

<i>Sr. No.</i>	<i>Particulars checked</i>	<i>Comments</i>	<i>No. of instances</i>	<i>Remarks of internal auditor (if any)</i>
	independently with the account holders before execution and records the details of the process on instruction slip (Refer O.I.6.5.4.8)			
23	(a) Whether the instructions are being executed in CDAS as per the execution date mentioned by the BO? (execution date is not required to be filled in case of On-market and early pay-in instructions)	<input type="checkbox"/> Yes <input type="checkbox"/> No		
	(b) Whether any Instruction of the BO has not been executed or erroneously entered by DP ?	<input type="checkbox"/> Yes <input type="checkbox"/> No		
24	Whether DP has accepted pre-signed DIS with blank columns from the BO(s) ?	<input type="checkbox"/> Yes <input type="checkbox"/> No		

**(4) Account Closure**

<i>Sr. No.</i>	<i>Particulars checked</i>	<i>Comments</i>	<i>No. of instances</i>	<i>Remarks of internal auditor (if any)</i>
1	Whether BO has submitted the Account Closure Form (ACF) / a letter containing the particulars specified in ACF if the BO initiates closure ?	<input type="checkbox"/> Yes <input type="checkbox"/> No		
2	(a) Whether DP has sent transaction statement for the quarter in which the request for account closure has been received from the BOs with the words "Account Closed / Marked for Closure".	<input type="checkbox"/> Yes <input type="checkbox"/> No		
	(b) Whether proof of dispatch of such statement of accounts has been preserved by the DP. (Refer Communiqué 704)?	<input type="checkbox"/> Yes <input type="checkbox"/> No		
3	In case of account closure initiated by BO, whether the DP has complied with the procedure for initiation of closure / transfer of balances / rematerialisation within 7 days of receipt of account closure request? (Refer communiqué 2579 dated 27.07.2011)	<input type="checkbox"/> Yes <input type="checkbox"/> No		
4	In case of account closure initiated by DP,			

<i>Sr. No.</i>	<i>Particulars checked</i>	<i>Comments</i>	<i>No. of instances</i>	<i>Remarks of internal auditor (if any)</i>
	whether DP has given 30 days notice to BO before closing accounts ?	<input type="checkbox"/> Yes <input type="checkbox"/> No		
5	In case a BO wants to close an account with pending demat position, whether the DP has followed the procedure as prescribed in operating instruction 10.5.3.19 for such cases?	<input type="checkbox"/> Yes <input type="checkbox"/> No		
6	In case of demat account closure / shifting of the demat account from one DP to another, whether DP has complied with the procedure of refunding AMC for the balance quarter/s, in case the same is collected upfront on annual/ half yearly basis ?	<input type="checkbox"/> Yes <input type="checkbox"/> No		
7	If any accounts have been shifted from one DP to another by using Account Transfer option in the Transfer/Transmission module or waiver has been claimed for inter depository transfer, whether the procedure prescribed in this regard has been followed ?	<input type="checkbox"/> Yes <input type="checkbox"/> No		

**(5) Audit of other transactions / services:**

<i>Sr. No.</i>	<i>Particulars checked</i>	<i>Comments</i>	<i>No. of instances</i>	<i>Remarks of internal auditor (if any)</i>
1	Whether all formats used by the DP are in conformity with CDSL's prescribed format ?	<input type="checkbox"/> Yes <input type="checkbox"/> No		
2	Is there a system for reconciliation for AOF, Demat requests, remat request forms, etc.?	<input type="checkbox"/> Yes <input type="checkbox"/> No		
3	Whether any indictments or any other orders have been passed against the DP by any competent authority? If yes, whether the same has been notified to the depository within 7 days of passing such order ?	<input type="checkbox"/> Yes <input type="checkbox"/> No		
4	(a) Whether Power of Attorney (POA) documents are duly executed and the same have been appropriately entered into CDAS?	<input type="checkbox"/> Yes <input type="checkbox"/> No		
	(b) Whether set-up / modification / cancellation of Power of Attorney is	<input type="checkbox"/> Yes <input type="checkbox"/> No		

Sr. No.	Particulars checked	Comments	No. of instances	Remarks of internal auditor (if any)
	recorded in CDAS within the prescribed time limit from the date of receipt?			
	(c) Whether DP has mandatorily registered the BO for SMART (SMS Alert) facility, at the time of setting up POA? (Refer O.I.3.4.4)	<input type="checkbox"/> Yes <input type="checkbox"/> No		
5	(a) Whether any POA with expiry date has been accepted ?	<input type="checkbox"/> Yes <input type="checkbox"/> No		
	(b) If yes, whether there is internal control mechanism to monitor expiry of such POA?	<input type="checkbox"/> Yes <input type="checkbox"/> No		
6	Whether POA contains any clauses which are detrimental to the interest of the BOs ?	<input type="checkbox"/> Yes <input type="checkbox"/> No		
7	Whether POA in favour of a stock broker DP contains clauses as per SEBI guidelines (Refer communiqué 1977 & 2102)	<input type="checkbox"/> Yes <input type="checkbox"/> No		
8	Whether the DP has received any complaint for data entry errors / omissions which may cause inconvenience and / or loss to the BO / system / DP / CDSL?	<input type="checkbox"/> Yes <input type="checkbox"/> No		
9	(a) Whether registration of clients to easi is done after obtaining registration forms, if not done at the time of account opening.	<input type="checkbox"/> Yes <input type="checkbox"/> No		
	(b) Whether registration of clients to easiest is done after obtaining registration forms.	<input type="checkbox"/> Yes <input type="checkbox"/> No		
10	(a) Whether the following instructions are processed as per procedure prescribed by CDSL?	<input type="checkbox"/> Yes <input type="checkbox"/> No		
	(a) Freeze, unfreeze.	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N.A.		
	(b) Pledge, unpledge, confiscation.	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N.A.		
	(c) Remat / Repurchase / Restat request.	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N.A.		
	(Please specify comments for each category clearly and instances against each type of instruction for non-compliance observed)			
	(b) Before unfreezing an account which was			

Sr. No.	Particulars checked	Comments	No. of instances	Remarks of internal auditor (if any)
	frozen due to PAN non-compliance, whether PANCARD is obtained and correct details are entered in CDAS?	<input type="checkbox"/> Yes <input type="checkbox"/> No		
11	Whether the transmissions effected, if any, have been done in accordance with the procedure stipulated by CDSL like obtaining duly filled TRF and notarized /attested (by a Gazetted officer) copy of death certificate etc.	<input type="checkbox"/> Yes <input type="checkbox"/> No		
12	(a) Whether there is a system in place to record and redress all the grievances of BOs arising at the main DP or at the branch / back office connected centre within the stipulated time of 30 days?  (b) Whether any BO grievance was pending for more than 30 days for reason other than 'pending demat'?  (c) Whether grievances pending for more than 30 days were properly reported to CDSL ?  (d) Whether DP has designated e-mail id for investor grievances and displayed the same on the website as per SEBI circular no. MRD/DOP/Dep/SE/Cir-22/06 dated December 18, 2006 ?	<input type="checkbox"/> Yes <input type="checkbox"/> No		
13	(a) Whether Main DP sends the statement of account (transaction / holding statement) at intervals as prescribed by CDSL to all its BOs including live connected branch BOs?  (b) Mode of sending statement of account : <input type="checkbox"/> Physical <input type="checkbox"/> Electronic  (c) If the DP is sending statement of accounts through electronic mode – (i) Whether the statements of accounts are sent under digital signature of DP official ? <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N.A. (ii) Whether DP has obtained written consent of the BO for the same? <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N.A.	<input type="checkbox"/> Yes <input type="checkbox"/> No		
14	In case DP has opted an exemption from sending transaction statements to BOs in respect of demat accounts with no transactions	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N.A.		

Sr. No.	Particulars checked	Comments	No. of instances	Remarks of internal auditor (if any)
	and no security balances, whether procedure as prescribed by CDSL as per operating instruction 16.7 is followed?			
15	In case the third party address has been accepted as a correspondence address of a BO, Whether the DP has ensured that the statement of transactions and holding are sent to the BO's permanent address at least once in a year ?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N.A.		
16	(a) Whether the DP has appointed 'Principal Officer' as required under PMLA Act? (b) Whether the DP has prepared a proper policy framework as per the guidelines of PMLA and a copy is sent to FIU-IND? (c) Whether the register, as prescribed by CDSL regarding the alerts being provided, is being maintained properly and actions taken are being recorded? (Refer communiqué 762) (d) Whether the DP has informed CDSL of the number of STRs filed by them directly with FIU-IND during a given month, in the format as prescribed ? (e) Whether DP is compliant with PMLA guidelines and SEBI master circular with respect to Depository Participant operations no CIR/ISD/AML/3/2010 dated December 31, 2010?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N.A. <input type="checkbox"/> Yes <input type="checkbox"/> No		
17	(a) Whether the DP gives notice of at least 30 days before revising the charges? (b) Whether the DP levies charges to BOs for account opening and account closure? (c) Whether the DP's tariff structure is commensurate with SEBI and/or CDSL instructions in this regard ? (d) Whether DP has uploaded the tariff details and subsequent modification (if any) to CDSL's website ?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Yes <input type="checkbox"/> No		
18	Whether minimum two staff operating the CDAS are appropriately trained and hold valid training certificate ? (Refer operating instruction 17.7 ) Please mention the number of staff ( with valid certificate) trained at CDSL/	<input type="checkbox"/> Yes <input type="checkbox"/> No	CDSL trained 5 days 1 day BCCD/	— —

<i>Sr. No.</i>	<i>Particulars checked</i>	<i>Comments</i>	<i>No. of instances</i>	<i>Remarks of internal auditor (if any)</i>
	holding NISM certificate / holding BCCD certificate / trained at CDSL one day training programme separately.		NISM Certified	— —
19	(a) Whether Compliance Officer appointed by the DPs for the main DP office and at their live connected branch is employee of the DP ?  (b) Whether changes in the details of the compliance officer / authorized signatories / office address and change if any is informed by DP to CDSL in the prescribed format ?	<input type="checkbox"/> Yes <input type="checkbox"/> No  <input type="checkbox"/> Yes <input type="checkbox"/> No		
20	Whether DP follows maker-checker concept in all of its activities to ensure the accuracy of the data and as a mechanism to check unauthorized transactions ?	<input type="checkbox"/> Yes <input type="checkbox"/> No		
21	Whether Invalid/ factually incorrect/ meaningless data has been entered in demographic details ?	<input type="checkbox"/> Yes <input type="checkbox"/> No		
22	Whether the DP is keeping on record, identification documents (including photo-identification) of the persons engaged in DP operations at its office and at service centres?	<input type="checkbox"/> Yes <input type="checkbox"/> No		
<b>(6) Live connected Branches / Service centres</b>				
<i>Sr. No.</i>	<i>Particulars checked</i>	<i>Comments</i>		<i>Remarks of internal auditor (if any)</i>
1	Whether prior approval of CDSL for opening of Service Centre i.e. back office connected branch/ collection centre has been obtained and due diligence procedure has been complied with by DP ?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N.A.		
2	Whether the scope of activity of the live connected branches / service centres is clearly documented and adhered to?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N.A.		
3	Whether all the live connected branches / service centres of the DP display the name of the DP prominently ?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N.A.		

Sr. No.	Particulars checked	Comments	Remarks of internal auditor (if any)
4	Whether at least one staff member of each live connected branch DP is on the payroll of the main DP?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N.A.	
5	Whether each live connected branch / service centre employ trained staff as prescribed by CDSL?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N.A.	
6	Whether live connected branches / service centres are provided with the relevant and critical information/ circulars like securities admitted to Depository, Bye Laws, Operating Instructions for Depository Participants, format / stationery, methods of feedback to clients, viz., demat rejection, failure of delivery out, credits received, etc.?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N.A.	
7	Whether service centers have adequate infrastructure for the current as well as expected level of operations?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N.A.	
8	Whether there is a control, co-ordination and the supervisory set up for reporting events that have occurred at live connected branches / service centres that require management intervention?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N.A.	
9	Whether the service centres of the DP have adequate provisions for safety and security of the documents pertaining to the BOs?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N.A.	
10	Whether reconciliation between the live connected branches / service centres and Main DP takes place for the purpose for maintenance of account opening form, demat request, instruction slips and blank instruction booklets issued by and / or received from the branches / services centres?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N.A.	
11	(a) Whether the services of any of the live connected branch / service centres have been closed / terminated by the Main DP?  (b) If yes, whether the same has been done as per CDSL requirement?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N.A.  <input type="checkbox"/> Yes <input type="checkbox"/> No	
12	Whether service centres (including service centre of live connected branches) display the types of services provided by each of them?	<input type="checkbox"/> Yes <input type="checkbox"/> No	
13	(a) Whether any service centre (including service centre of live connected branches) is being managed by franchisee?  (b) Whether the Franchisee (service centre) is duly registered with regulatory authority such as a recognized stock exchange, SEBI, RBI or IRDA?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N.A.  <input type="checkbox"/> Yes <input type="checkbox"/> No	



<i>Sr. No.</i>	<i>Particulars checked</i>	<i>Comments</i>	<i>Remarks of internal auditor (if any)</i>
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- |     |   |  |  |
|-----|---|--|--|
| (c) | Whether DP has signed an agreement with the franchisee, covering services that can be offered by the franchisee and the same is kept on record ?  | <input type="checkbox"/> Yes <input type="checkbox"/> No |  |
| (d) | Whether the service centre (franchisee) is carrying out only those functions which are not prohibited by Depository (In-person verification, KYC verification and verification of delivery instruction slips cannot be done by franchisee). | <input type="checkbox"/> Yes <input type="checkbox"/> No |  |

**(7) Back office software:**

<i>Sr. No.</i>	<i>Particulars checked</i>	<i>Comments</i>	<i>Remarks (if any)</i>
1	(a) Whether back office software has been installed in Main DP /Live connected branch DPs.(Refer comm.1577 dtd.13.05.2009)	<input type="checkbox"/> Yes <input type="checkbox"/> No	
	(b) Whether the software contains minimum features prescribed in Operating Instructions?	<input type="checkbox"/> Yes <input type="checkbox"/> No	
2	(a) Whether statement of transactions are (or any other reports like Clients Master Reports, etc.) generated from the back office?	<input type="checkbox"/> Yes <input type="checkbox"/> No	
	(b) If yes, whether the details of the same match with the statement or report generated from CDAS ?	<input type="checkbox"/> Yes <input type="checkbox"/> No	
3	Whether back office (including website) is updated regularly for the transactions done on the CDAS?	<input type="checkbox"/> Yes <input type="checkbox"/> No	
4	Whether the back up of data residing in back office (or any data maintained in electronic form) with respect to depository operations is taken ?	<input type="checkbox"/> Yes <input type="checkbox"/> No	
5	(a) Whether back office network is connected to Internet ?	<input type="checkbox"/> Yes <input type="checkbox"/> No	
	(b) If yes, whether the same is protected by appropriate mechanism like firewalls ?	<input type="checkbox"/> Yes <input type="checkbox"/> No	
6	Whether back office network is connected to CDSL network without permission of DoT and CDSL?	<input type="checkbox"/> Yes <input type="checkbox"/> No	
7	Whether proper mechanism exists to ensure integrity of files from back-office before they are uploaded from DP terminal ?	<input type="checkbox"/> Yes <input type="checkbox"/> No	

**(8) Records and documents to be maintained:**

<i>Sr. No.</i>	<i>Particulars checked</i>	<i>Comments</i>	<i>Remarks (if any)</i>
1	Whether the following records are being kept in a manner so that they can be retrieved at any time :		
	(a) Account opening forms, agreements and supporting documents of all BOs	<input type="checkbox"/> Yes <input type="checkbox"/> No	
	(b) Register of documents / certificates received and sent for dematerialization.	<input type="checkbox"/> Yes <input type="checkbox"/> No	
	(c) Instruction slips duly signed by BOs for off-market, settlement, pledge, unpledge, inter-depository transfers, freeze, unfreeze and account closure forms etc.	<input type="checkbox"/> Yes <input type="checkbox"/> No	
	(d) Record for transaction statements provided to BO, giving details such as account number, date of dispatch, period for which the statement was dispatched, etc.	<input type="checkbox"/> Yes <input type="checkbox"/> No	
	(e) Investor Grievance Register	<input type="checkbox"/> Yes <input type="checkbox"/> No	
	(f) Back up Register	<input type="checkbox"/> Yes <input type="checkbox"/> No	
	(g) Power of Attorney Register (as per operating instructions 3.4.4.1)	<input type="checkbox"/> Yes <input type="checkbox"/> No	
	(h) Nomination Register (as per operating instructions 3.4.2.1) ?	<input type="checkbox"/> Yes <input type="checkbox"/> No	
	(i) DIS Issued Register ?	<input type="checkbox"/> Yes <input type="checkbox"/> No	
2	Whether records are kept separately for each depository?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N.A.	
3	Whether there is a system to maintain all the records and written instructions received from BOs for a minimum period of 10 years ?	<input type="checkbox"/> Yes <input type="checkbox"/> No	
4	Whether the concurrent audit of risk prone areas on 100% basis is being conducted by the auditor conducting internal audit in accordance with the guidelines specified by CDSL from time to time? (If the concurrent auditor is different, please attach the consolidated concurrent audit report as Annexure B)	<input type="checkbox"/> Yes <input type="checkbox"/> No	
5	(a) Whether concurrent audit report is being submitted by the concurrent auditor on monthly basis?	<input type="checkbox"/> Yes <input type="checkbox"/> No	
	(b) Whether concurrent auditor was informed about the requirement to report serious non-compliances directly to CDSL as and when noticed ?	<input type="checkbox"/> Yes <input type="checkbox"/> No	

**(9) Centralized Depository Accounting System (CDAS):**

Sr. No.	Particulars checked	Comments	Remarks (if any)
1	Number of persons authorized to access CDAS system		
2	Is secrecy of passwords maintained at all levels?	<input type="checkbox"/> Yes <input type="checkbox"/> No	
3	Are the staff operating the CDAS appropriately trained?	<input type="checkbox"/> Yes <input type="checkbox"/> No	
4	Whether old reports are being deleted from system at pre-defined interval ?	<input type="checkbox"/> Yes <input type="checkbox"/> No	
5	Whether the DP takes the backup of their CDAS system (SQL backup file & Report folder) on daily basis ?	<input type="checkbox"/> Yes <input type="checkbox"/> No	
6	(a) Which media / device is used to take backup? If any other external device is being used for the backup please mention in the remarks column	<input type="checkbox"/> CDs <input type="checkbox"/> DAT Tapes <input type="checkbox"/> DVDs	
	(b) Whether such media is stored safely?	<input type="checkbox"/> Yes <input type="checkbox"/> No	
7	Whether CDAS is being used for any other purpose?	<input type="checkbox"/> Yes <input type="checkbox"/> No	
8	Whether any software not prescribed by CDSL has been installed on CDAS?	<input type="checkbox"/> Yes <input type="checkbox"/> No	
9	Whether the configuration of hardware, software of CDAS is as per CDSL specification ?	<input type="checkbox"/> Yes <input type="checkbox"/> No	
10	Whether releases of CDAS have been properly applied ?	<input type="checkbox"/> Yes <input type="checkbox"/> No	
11	(a) Whether the Anti Virus Software has been installed ?	<input type="checkbox"/> Yes <input type="checkbox"/> No	
	(b) If yes, is the Anti Virus Software upgraded regularly on weekly basis ?	<input type="checkbox"/> Yes <input type="checkbox"/> No	
12	Whether the variable access rights' scheme as suggested by CDSL is implemented properly ?	<input type="checkbox"/> Yes <input type="checkbox"/> No	
13	Whether the CDAS is adequately protected in a secure area with adequate power supply (UPS or voltage stabilizer) ?	<input type="checkbox"/> Yes <input type="checkbox"/> No	
14	Whether maintenance of the DP terminal (like database purging, application of new releases, etc.)	<input type="checkbox"/> Yes <input type="checkbox"/> No	

<i>Sr. No.</i>	<i>Particulars checked</i>	<i>Comments</i>	<i>Remarks (if any)</i>
	is being done as per CDSL Operating Instructions and communiqués ?		
15	Whether the CDAS is connected to any other network without approval of DoT and /or CDSL? ?	<input type="checkbox"/> Yes <input type="checkbox"/> No	
16	Whether the CDAS is connected to the Internet ?	<input type="checkbox"/> Yes <input type="checkbox"/> No	
17	The DP has implemented the procedures as confirmed in the previous compliance report for the last inspection and/ or internal audit report.	<input type="checkbox"/> Yes <input type="checkbox"/> No	

**(10) Compliance status of previous inspection / internal audit reports pertaining to 2 prior periods and other areas.**

<i>Sr. No.</i>	<i>Particulars checked</i>	<i>Comments</i>	<i>Remarks (if any)</i>
1	Whether the discrepancies and /or non-compliances observed during previous inspections / last two internal audit are rectified and /or complied with? (Please refer the non compliance letter issued by CDSL)	<input type="checkbox"/> Yes <input type="checkbox"/> No	
2	Whether at least one person conducting internal and/ or concurrent audit is BCCD/NISM certified/ has participated training programme conducted by CDSL?	<input type="checkbox"/> Yes <input type="checkbox"/> No	
3	Whether the internal and/ or concurrent auditor are related party to the DP ?	<input type="checkbox"/> Yes <input type="checkbox"/> No	
4	Whether required internal controls, checks, risk management procedure are in place ?	<input type="checkbox"/> Yes <input type="checkbox"/> No	
5	Whether DP operations are carried out as per the operating procedures ,communiqués and Byelaws of CDSL ?	<input type="checkbox"/> Yes <input type="checkbox"/> No	
6	Whether adequate staff, hardware, and software are available and in existence at the office where the DP operations are being carried out ?	<input type="checkbox"/> Yes <input type="checkbox"/> No	
7	Whether the place of keeping records is adequate in terms of safety and security ?	<input type="checkbox"/> Yes <input type="checkbox"/> No	

**(11) Reports and documents required to be submitted to CDSL in the prescribed format:**

<i>Sr. No.</i>	<i>Reports / Documents</i>	<i>Frequency</i>	<i>Due Date for submission</i>	<i>Actual date of submission</i>	<i>Delay in submission (in days)</i>
1.	Annual Financial Statement	Yearly	30th September of the year.		
2.	Net worth Certificate and Computation Sheet	Yearly	30th September of the year.		
3.	BO grievance reports along with the grievances received from branches	Monthly	10th of the following Month.		

Stamp/Seal & Signature of the Auditor : \_\_\_\_\_ Date: \_\_\_\_\_

Management Comments : \_\_\_\_\_

Stamp and Signature of the Depository Participant : \_\_\_\_\_ Date: \_\_\_\_\_

**FORMAT OF THE CONSOLIDATED CONCURRENT AUDIT  
REPORT TO BE ATTACHED AS ANNEXURE TO THE  
INTERNAL AUDIT REPORT, IF THE CONCURRENT  
AUDITOR IS DIFFERENT FROM THE  
INTERNAL AUDITOR**

DP-ID :

Period for which the consolidated  
concurrent audit report is submitted :

Name of the Audit firm and officials  
conducting concurrent audit :

I/We certify that the Concurrent Audit of risk prone areas has been done on 100% basis in accordance with the guidelines specified by CDSL for the below mentioned risk prone areas:-

1. Account Opening and Maintenance:
2. Issuance of Instruction Slips:
3. Execution of Instruction Slips:
4. Account Closure initiated by DP:
5. Investor Grievances Received By the DP:
6. Transaction statements:
7. Modifications in Power of Attorney (including Setup in existing demat account / Revocation of POA):
8. Transmission

Concurrent auditors are required to give comments on the following:

- (i) Whether any lapse was observed ? –  Yes  No
- (ii) If any lapse was observed, the nature of deviation and the rationale of arriving at the conclusion should be mentioned. The number of instances and list of such instances to be attached as annexure.
- (iii) Suggestions for improvement. (If the auditor does not have any suggestion, the same should be specifically mentioned by the auditor)
- (iv) Compliance status and Management Comments (in case of negative observations).

I / we are not related party to the DP :

I / We hereby declare that at least one person conducting the internal and / or concurrent audit of risk prone areas is BCCD certified / has participated in a training programme conducted by CDSL.

Stamp/Seal & Signature of the Auditor : \_\_\_\_\_

Date : \_\_\_\_\_

Management Comments : \_\_\_\_\_

Stamp and Signature of the Depository Participant : \_\_\_\_\_

\_\_\_\_\_

**FORMAT OF NSDL AUDIT REPORT ON INTERNAL  
AND CONCURRENT AUDIT FOR DEPOSITORY  
PARTICIPANTS\***

Name of the auditee	
DP ID(s)	INXXXXXX
	INXXXXXX
Audit period	DD-MMM-YY to DD-MMM-YY
Name of the auditor	
Membership No. of the auditor	
Name of the audit firm	
I / We hereby declare that Circular no. NSDL/Policy 2012/0047 dated April 19, 2012 was read, understood and this report is based on the guidelines given in this Circular. I / We hereby further declare that I / we have no conflict of interest with the Participant.	
Signature of the auditor	
Stamp of the auditor / audit firm	
Date	DD-MMM-YY

\* Source : NSDL Circular No. NSDL/Policy/2012/0047 dated April 19, 2012.



**NSDL Activity wise Sampling Details**

<i>Srl. no.</i>	<i>Area</i>	<i>Count for the audit period (total number of accounts opened, demat request processed etc.)</i>	<i>No. of samples checked</i>
1	Account Opening (100%)		
2	Demat requests		
3	Remat requests		
4	DIS book issuance (100%)		
5	DIS execution (atleast 25%)		
6	Pledge / hypothecation instructions		
7	Client data modifications		
8	Power of Attorney modifications (100%)		
9	Account closure requests - Initiated by Participant (100%) - Initiated by client		
10	Transmission (100%)		
11	Investor grievances received by Participant (100%)		
12	Providing transaction statement to clients (100% process level) (For count/ samples checked, specify number of occasions of dispatch during audit period – typically it would be six for the six month period). <b>Note 1</b> - Specify number of occasions of dispatch of transaction statement during audit period by Participant <b>Note 2</b> – Specify number of occasions of dispatch checked by auditor.	See note 1	See note 2

**CHECKLIST**

<i>Sr. No.</i>	<i>Audit Areas</i>	<i>Auditor's Observation</i>	<i>Auditor's Remarks</i>	<i>Management's Comment*</i>
<b>1 Audit of Account Opening</b>				
1.1	Whether proof of identity, proof of address and other stipulated documents have been obtained for all the accounts as per KYC guidelines issued by SEBI and NSDL ?	<input type="checkbox"/> Yes <input type="checkbox"/> No	If no, then number of accounts with discrepancies must be mentioned here	
1.2	If correspondence address of third party is accepted, whether guidelines prescribed by SEBI / NSDL has been followed?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N.A.	If no, then number of accounts with discrepancies must be mentioned here	
1.3	Whether PANs are obtained for all the accounts, wherever applicable?	<input type="checkbox"/> Yes <input type="checkbox"/> No	If no, then number of accounts with discrepancies must be mentioned here	
1.4	Whether PANs are verified with the database of Income Tax Department and stamp of "PAN Verified" has been affixed on the photocopy of the PAN card(s) for all the accounts?	<input type="checkbox"/> Yes <input type="checkbox"/> No	If no, then number of accounts with discrepancies must be mentioned here	
1.5	Whether copies of all the documents submitted by the applicant is self-attested ?	<input type="checkbox"/> Yes <input type="checkbox"/> No	If no, then number of accounts with discrepancies must be mentioned here	
1.6	Whether copies of all the documents submitted by the applicant are accompanied with originals for verification / properly attested by entities authorized for attesting the documents in cases where the original of the said document is not produced for verification ?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N.A.	If no, then number of accounts with discrepancies must be mentioned here	
1.7	Whether the 'in-person' verification of the account holders has been done before activation of the account as per SEBI and NSDL guidelines?	<input type="checkbox"/> Yes <input type="checkbox"/> No	If no, then number of accounts with discrepancies must be mentioned here	
1.8	Whether prescribed DP - Client agreement has been executed for all the accounts?	<input type="checkbox"/> Yes <input type="checkbox"/> No	If no, then number of accounts with discrepancies must be mentioned here	
1.9	Whether a separate DP - Client agreement has been executed with clients who want to hold warehouse receipts in their account?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N.A.	If no, then number of accounts with discrepancies must be mentioned here	

\* *Mandatory if auditor's observation is negative.*

<i>Sr. No.</i>	<i>Audit Areas</i>	<i>Auditor's Observation</i>	<i>Auditor's Remarks</i>	<i>Management's Comment</i>
1.10	Whether data entered in DPM system matches with the details mentioned in the account opening form?	<input type="checkbox"/> Yes <input type="checkbox"/> No	If no, then number of accounts with discrepancies must be mentioned here	
1.11	Whether signature of account holder(s) as given in the account opening form has been scanned in the DPM system clearly and correctly?	<input type="checkbox"/> Yes <input type="checkbox"/> No	If no, then number of accounts with discrepancies must be mentioned here	
1.12	Whether all KYC application forms and account opening forms are completely filled?	<input type="checkbox"/> Yes <input type="checkbox"/> No	If no, then number of accounts with discrepancies must be mentioned here	
1.13	Whether the KYC application form and supporting documents of the clients has been sent to KRA within 10 working days from the date of execution of documents by clients ?	<input type="checkbox"/> Yes <input type="checkbox"/> No	If no, then number of accounts with discrepancies must be mentioned here	
1.14	Whether the Participant has uploaded existing clients' KYC data on KRA system and sent KYC documents to KRA as per SEBI guidelines ?	<input type="checkbox"/> Yes <input type="checkbox"/> No	If no, then number of accounts with discrepancies must be mentioned here	
1.15	Whether the Participant has used the KYC data of a client obtained from the KRA only for the purposes it is meant for ?	<input type="checkbox"/> Yes <input type="checkbox"/> No	If no, then number of cases with discrepancies must be mentioned here	
<b>2 Client Data Modification</b>				
2.1	Whether clients' request for changes in data (e.g. address, signature, bank details, nomination) have been processed as per prescribed procedure?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N.A.	If no, then number of accounts with discrepancies must be mentioned here	
2.2	Whether clients' request for closure / freezing / unfreezing of account have been processed as per prescribed procedure?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N.A.	If no, then number of accounts with discrepancies must be mentioned here	
<b>3 Demat / Remat / Conversion / Reconversion request</b>				
3.1	Whether the demat/ conversion requests have been accepted and processed as per the prescribed procedure?	<input type="checkbox"/> Yes <input type="checkbox"/> No	If no, then number of accounts with discrepancies must be mentioned here	
3.2	Whether date of receiving the demat/ conversion request and date of forwarding the documents to Issuer / Registrar & Transfer Agent have been recorded correctly?	<input type="checkbox"/> Yes <input type="checkbox"/> No	If no, then number of accounts with discrepancies must be mentioned here	

<i>Sr. No.</i>	<i>Audit Areas</i>	<i>Auditor's Observation</i>	<i>Auditor's Remarks</i>	<i>Management's Comment</i>
3.3	Whether demat / conversion requests received have been sent to Issuer / Registrar & Transfer Agent within seven days from the date of receipt of the request from the account holder ?	<input type="checkbox"/> Yes <input type="checkbox"/> No	If no, then number of accounts with discrepancies must be mentioned here	
3.4	Whether there are sufficient provisions / arrangements for safe keeping of security certificates received from account holders for dematerialisation and certificates received after rejection of the demat request from Issuer / Registrar & Transfer Agent?	<input type="checkbox"/> Yes <input type="checkbox"/> No		
3.5	Whether any demat/conversion request was rejected due to error attributable to Participant?	<input type="checkbox"/> Yes <input type="checkbox"/> No		
3.6	Whether Participant has taken necessary corrective and preventive measures to avoid rejections attributable to Participants?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N.A.		
3.7	Whether demat cancellation request, if any, has been processed by the Participant as per the prescribed procedure?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N.A.	If no, then number of accounts with discrepancies must be mentioned here	
3.8	Whether the remat reconversion requests have been accepted and processed as per the prescribed procedure?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N.A.	If no, then number of accounts with discrepancies must be mentioned here	
<b>4 Delivery Instruction Slip (DIS)</b>				
<b>4.1 Issuance of DIS</b>				
4.1.1	Whether physical inventory of DIS booklets is reconciled with the DIS issue records periodically ?	<input type="checkbox"/> Yes <input type="checkbox"/> No		
4.1.2	Whether the DIS issued to client has pre-stamped client ID and pre-printed unique serial number ?	<input type="checkbox"/> Yes <input type="checkbox"/> No	If no, then number of accounts with discrepancies must be mentioned here	
4.1.3	Whether DIS booklets have been issued on receipt of requisition slips signed by the client (all holders in case of joint account)?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N.A.	If no, then number of accounts with discrepancies must be mentioned here	

<i>Sr. No.</i>	<i>Audit Areas</i>	<i>Auditor's Observation</i>	<i>Auditor's Remarks</i>	<i>Management's Comment</i>
4.1.4	Whether issuance of loose DIS to account holder is done as per prescribed procedure?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N.A.	If no, then number of cases with discrepancies must be mentioned here	
4.1.5	If DIS booklet is handed over to the authorized person other than account holder, then whether the signature of authorized person and his proof of identity are verified before issuance of DIS booklet?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N.A.	If no, then number of cases with discrepancies must be mentioned here	
4.1.6	Whether DIS (booklet or loose) issued to account holder is immediately updated in back office or issuance register?	<input type="checkbox"/> Yes <input type="checkbox"/> No	If no, then number of cases with discrepancies must be mentioned here	
<b>4.2 Verification of DIS</b>				
4.2.1	Whether date and time stamp is affixed on both Participant and client copy of DIS received ?	<input type="checkbox"/> Yes <input type="checkbox"/> No	If no, then number of cases with discrepancies must be mentioned here	
4.2.2	Whether Participant affixes 'late stamp' on DIS received beyond the prescribed deadline time?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N.A.	If no, then number of cases with discrepancies must be mentioned here	
4.2.3	Whether Participant verifies that the DIS received from client was actually issued to same client ID?	<input type="checkbox"/> Yes <input type="checkbox"/> No	If no, then number of cases with discrepancies must be mentioned here	
4.2.4	Whether serial number of all the executed DIS(s) (irrespective of whether executed through back office or directly in DPM system) and DIS(s) reported as lost / misplaced / stolen by the account holder are blocked in the back office or in the DIS issuance register to prevent any re-acceptance?	<input type="checkbox"/> Yes <input type="checkbox"/> No	If no, then number of cases with discrepancies must be mentioned here	
4.2.5	Whether DIS(s) given by account holder are available for all instructions executed in DPM system (instruction other than those given by account holders through Speed-e / electronically) ?	<input type="checkbox"/> Yes <input type="checkbox"/> No	If no, then number of cases with discrepancies must be mentioned here	
4.2.6	Whether signature(s) on DIS match with the signature(s) scanned in the DPM system ?	<input type="checkbox"/> Yes <input type="checkbox"/> No	If no, then number of cases with discrepancies must be mentioned here	

<i>Sr. No.</i>	<i>Audit Areas</i>	<i>Auditor's Observation</i>	<i>Auditor's Remarks</i>	<i>Management's Comment</i>
4.2.7	Whether corrections / cancellation on DIS, if any, are authenticated by the client (all holders for joint accounts) ?	<input type="checkbox"/> Yes <input type="checkbox"/> No	If no, then number of cases with discrepancies must be mentioned here	
4.2.8	Whether Participant accepts instructions by fax from account holder ?	<input type="checkbox"/> Yes <input type="checkbox"/> No		
4.2.9	If reply to 4.2.8 is yes, then whether original DIS has been received within three working days for all faxed instructions ?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N.A.	If no, then number of cases with discrepancies must be mentioned here	
4.2.10	If reply to 4.2.8 is yes, then whether there is a system in place to prevent multiple execution of the same instruction, in case fax instructions are accepted ?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N.A.	If no, then number of cases with discrepancies must be mentioned here	
4.2.11	If reply to 4.2.8 is yes, then whether Participant has obtained an indemnity from account holders who want to give instruction over fax ?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N.A.	If no, then number of cases with discrepancies must be mentioned here	
4.2.12	If Participant is accepting delivery instruction in form of an annexure to a DIS, whether it is done as per the prescribed procedure ?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N.A.	If no, then number of cases with discrepancies must be mentioned here	
4.2.13	Whether information under columns "Consideration" and "Reason / Purpose" are mentioned for off market instructions ?	<input type="checkbox"/> Yes <input type="checkbox"/> No	If no, then number of cases with discrepancies must be mentioned here	
4.2.14	Whether Participant follows maker - checker system to process the instructions ?	<input type="checkbox"/> Yes <input type="checkbox"/> No	If no, then number of cases with discrepancies must be mentioned here	
4.2.15	Whether there is an additional level of verification for high value instructions (instruction with value of Rs. 5 lakhs and above)?	<input type="checkbox"/> Yes <input type="checkbox"/> No	If no, then number of cases with discrepancies must be mentioned here	
4.2.16	Whether there is an additional level of verification for instructions received for dormant accounts?	<input type="checkbox"/> Yes <input type="checkbox"/> No	If no, then number of cases with discrepancies must be mentioned here	

<i>Sr. No.</i>	<i>Audit Areas</i>	<i>Auditor's Observation</i>	<i>Auditor's Remarks</i>	<i>Management's Comment</i>
4.2.17	Whether instructions executed in the DPM system are as per DIS ?	<input type="checkbox"/> Yes <input type="checkbox"/> No	If no, then number of cases with discrepancies must be mentioned here	
4.2.18	Whether Participant accepts instructions in electronic form (Circular no. NSDL/POLICY/2008/0002 dated January 11, 2008) ?	<input type="checkbox"/> Yes <input type="checkbox"/> No		
4.2.19	If reply to 4.2.18 is yes, whether NSDL's approval has been obtained ?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N.A.		
4.2.20	If reply to 4.2.18 is yes, whether NSDL prescribed guidelines are being followed in case of acceptance and execution of instructions in electronic form ?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N.A.	If no, then number of cases with discrepancies must be mentioned here	
<b>5 Transaction Statement</b>				
5.1	Whether transaction statements are generated from back office or DPM system?	<input type="checkbox"/> Back office <input type="checkbox"/> DPM system		
5.2	If generated from back office, whether the details match with statement generated from DPM system?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N.A.	If no, then number of cases with discrepancies must be mentioned here	
5.3	Whether transaction statements are provided to the account holders as per prescribed frequency?	<input type="checkbox"/> Yes <input type="checkbox"/> No	If no, then number of cases with discrepancies must be mentioned here	
5.4	If Participant does not send transaction statement on quarterly basis to clients holding account with no transaction and no security balance, then whether the relevant guidelines have been followed?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N.A.	If no, then number of cases with discrepancies must be mentioned here	
5.5	If Participant is sending transaction statement through internet (web based/ email), then whether the relevant guidelines have been followed?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N.A.	If no, then number of cases with discrepancies must be mentioned here	

<i>Sr. No.</i>	<i>Audit Areas</i>	<i>Auditor's Observation</i>	<i>Auditor's Remarks</i>	<i>Management's Comment</i>
<b>6 Compliance under Prevention of Money Laundering Act, 2002 (PMLA)</b>				
6.1	Whether Participant has adopted a policy to comply with its obligations under PMLA?	<input type="checkbox"/> Yes <input type="checkbox"/> No		
6.2	Whether Participant has complied with all the policies and procedures as prescribed under PMLA Act, 2002 and SEBI guidelines such as customer due diligence, suspicious transaction monitoring and reporting, record keeping etc.?	<input type="checkbox"/> Yes <input type="checkbox"/> No		
6.3	Whether Participant has appointed a Principal officer as required under PMLA?	<input type="checkbox"/> Yes <input type="checkbox"/> No		
6.4	Whether there is a mechanism to deal appropriately with the alerts provided by NSDL?	<input type="checkbox"/> Yes <input type="checkbox"/> No		
6.5	If any suspicious transaction is reported to FIU India then whether count of STRs reported to FIU are informed to NSDL?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N.A.		
<b>7 Operations Manual</b>				
7.1	Whether Participant has prepared a Operations Manual?	<input type="checkbox"/> Yes <input type="checkbox"/> No	If no, then point no. 7.2 to 7.5 are not applicable	
7.2	If reply to 7.1 is yes, whether Operations Manual covers all depository activities ?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N.A.	If no, then mention the areas not covered in operations manual	
7.3	If reply to 7.1 is yes, whether Operations Manual is updated as and when required?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N.A.	If no, then mention when it is updated	
7.4	If reply to 7.1 is yes, whether Operations Manual is available to persons who need to refer it?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N.A.	If no, then mention how is the work done by those persons	
7.5	If reply to 7.1 is yes, whether procedures mentioned in the Operations Manual are followed?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N.A.	If no, then give details here	



<i>Sr. No.</i>	<i>Audit Areas</i>	<i>Auditor's Observation</i>	<i>Auditor's Remarks</i>	<i>Management's Comment</i>
<b>8 Maintenance of record and documents</b>				
8.1	Whether Participant has informed NSDL about place(s) of record keeping?	<input type="checkbox"/> Yes <input type="checkbox"/> No	If no, then mention the place of record keeping	
8.2	Whether Participant has outsourced record keeping activity (partly or fully)?	<input type="checkbox"/> Yes <input type="checkbox"/> No	If yes, then the name of agency/firm and nature of arrangement must be mentioned here	
8.3	If reply to 8.2 is yes, whether NSDL's approval has been obtained?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N.A.		
8.4	If reply to 8.2 is yes, whether proper checks and control mechanism has been implemented by the vendor / agency ?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N.A.	If no, then various outsourcing risks inherent in the process must be mentioned here	
8.5	If reply to 8.2 is yes, whether during the course of periodic review, material outsourcing risks if any, are properly mitigated ?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N.A.	If no, then details should be mentioned here	
<b>9 Service centre (whether offering the services as a DPM setup, branch, franchisee, collection centre, drop box centre or called by any other name)</b>				
9.1	Whether NSDL's approval has been obtained for all the service centres opened during the audit period?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N.A.	If no, then details of non compliance must be mentioned here	
9.2	Whether prescribed procedure has been followed for any service centre closed / terminated during the audit period?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N.A.	If no, then details of non compliance must be mentioned here	
9.3	Whether the data of all the service centres (DPM setup, branch, franchisee, collection centre, drop box centre or called by any other name) displayed on the NSDL website is updated correct ?	<input type="checkbox"/> Yes <input type="checkbox"/> No	If no, then details such as missing service centre, non-existent service centre, error in contact person name or contact information, etc.	
9.4	Whether NCDO / NISM / NCFM qualified person in Depository operation is appointed at each service centres (DPM setup, branch, franchisee, collection centre or called by any other name except drop box centre)?	<input type="checkbox"/> Yes <input type="checkbox"/> No	If no, then details of Non-compliance must be mentioned here	

<i>Sr. No.</i>	<i>Audit Areas</i>	<i>Auditor's Observation</i>	<i>Auditor's Remarks</i>	<i>Management's Comment</i>
9.5	Whether internal audit has been conducted at any service centre other than the DPM setup ?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N.A.	If yes, then mention count of service centres audited and locations thereof?	
<b>10 Status of compliance for deviations / observations noted in last NSDL inspection and internal / concurrent audit report</b>				
10.1	Whether Participant has complied with all the deviations noted during last NSDL inspection ?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N.A.	If no, then details of non-compliance must be mentioned here	
10.2	Whether Participant has taken adequate preventive measures in respect of deviations noted during last NSDL inspection?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N.A.		
10.3	Whether Participant has taken adequate preventive and corrective measures in respect of deviations noted during latest internal / concurrent audit ?	<input type="checkbox"/> Yes <input type="checkbox"/> No	If no, then details of non-compliance must be mentioned here	
10.4	Whether NSDL has sought any specific comment from auditor with respect to any issue?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N.A.	If yes, then provide details/comments on issuer	
<b>11 Billing</b>				
11.1	Whether all account holder are billed as per the agreed schedule of charges?	<input type="checkbox"/> Yes <input type="checkbox"/> No		
11.2	Whether Participant has given atleast one month's prior notice for any modification in the schedule of charges ?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N.A.		
11.3	Whether Participant, in the event of closing of the demat account or shifting of the demat account from one Participant to another, refunded the annual maintenance charges collected upfront on annual/half yearly basis, to the client for the balance of the quarter/s?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N.A.	If no, then number of accounts, with discrepancies must be mentioned here	

Sr. No.	Audit Areas	Auditor's Observation	Auditor's Remarks	Management's Comment
11.4	Whether Participant has not <sup>1</sup> charged account holder(s), for transfer of all the securities lying in his account to another account of client with another branch of the same Participant or to another Participant of the same depository or another depository, provided the account holder(s) at transferee Participant and at transferor Participant are identical in all respects?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N.A.	If no, then number of accounts, with discrepancies must be mentioned heres	
<b>12 Back Office</b>				
12.1	Whether balances as per back office are reconciled on a daily basis with DPM system (applicable if participant is using any back office software for depository operations)?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N.A.		
<b>13 Miscellaneous areas</b>				
13.1	Whether all transmission cases have been processed as per prescribed procedure?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N.A.	If no, then number of accounts, with discrepancies must be mentioned heres	
13.2	Whether there is any supplementary agreement / letter of confirmation / power of attorney obtained / executed with account holder which are in contravention to prescribed DP-Client agreement / NSDL guidelines?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N.A.		
13.3	Whether Participant has collected requisite documents to claim waiver of settlement fees?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N.A.		
13.4	Whether pledge and hypothecation instructions are processed as per prescribed procedure?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N.A.		
13.5	Whether Participant has executed software utilities provided by NSDL on a monthly basis and taken appropriate action in respect of the exceptions identified?	<input type="checkbox"/> Yes <input type="checkbox"/> No		

1 Inserted by Circular No. - NSDL/Policy/2011/0041 dated May 11, 2011

<i>Sr. No.</i>	<i>Audit Areas</i>	<i>Auditor's Observation</i>	<i>Auditor's Remarks</i>	<i>Management's Comment</i>
13.6	Whether all investors' grievances have been redressed as per the procedure and within the stipulated time?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N.A.	If no, then give details of grievances pending for redressal here	
13.7	Whether forms in use for various activities are as prescribed?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N.A.	If no, then mention the forms and the discrepancies observed therein.	
13.8	Whether Power of Attorney contains clauses which are as per the SEBI stipulated guidelines?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N.A.	If no, then mention the discrepancies observed therein.	
13.9	Whether Power of Attorney documents are duly executed and the same have been entered into DPM?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N.A.	If no, then mention the discrepancies observed therein.	
13.10	Comment on improvements made in the operations since last audit		Views of the auditor on the improvements, if any (or nil), in operations of the Participant should be mentioned here	
13.11	Whether any business activity <b>other than record maintenance</b> is outsourced?	<input type="checkbox"/> Yes <input type="checkbox"/> No		
13.12	If reply to 13.11 is yes, mention the activity outsourced and whether NSDL's approval has been obtained?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N.A.		
13.13	If reply to 13.11 is yes, whether proper checks and control mechanism has been implemented by the vendor/ agency ?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N.A.	If no, then various outsourcing risks inherent in the process must be mentioned here	
13.14	If reply to 13.11 is yes, whether during the course of periodic review, material outsourcing risks if any, are properly mitigated ?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N.A.	If no, then details should be mentioned here	
<b>14</b>	<b>System areas</b>			
14.1	Whether hardware and software installed on machines used for depository operations are as per the specifications mentioned in the latest Form B submitted to NSDL?	<input type="checkbox"/> Yes <input type="checkbox"/> No	If no, then mention the mismatch	

<i>Sr. No.</i>	<i>Audit Areas</i>	<i>Auditor's Observation</i>	<i>Auditor's Remarks</i>	<i>Management's Comment</i>
14.2	Whether Participant is taking backup on a daily basis ?	<input type="checkbox"/> Yes <input type="checkbox"/> No		
14.3	Whether one copy of data backup is kept at local site and another at remote site ?	<input type="checkbox"/> Yes <input type="checkbox"/> No		
14.4	Whether a separate set of backup media for even / odd dates (or day wise) is maintained to ensure that corruption of one media does not result in loss of all backups for that day?	<input type="checkbox"/> Yes <input type="checkbox"/> No		
14.5	Whether updated antivirus is installed on the server and all the client machines?	<input type="checkbox"/> Yes <input type="checkbox"/> No		
14.6	Whether ASR is prepared as per prescribed guidelines?	<input type="checkbox"/> Yes <input type="checkbox"/> No		
14.7	Whether robocopy feature is working on one client machine ?	<input type="checkbox"/> Yes <input type="checkbox"/> No		
14.8	Whether all the software installed on server and client machines are licensed?	<input type="checkbox"/> Yes <input type="checkbox"/> No		
14.9	Whether RAID has been configured as per the prescribed guidelines?	<input type="checkbox"/> Yes <input type="checkbox"/> No		
14.10	Whether database reorg and shrinking are done as per the prescribed guidelines ?	<input type="checkbox"/> Yes <input type="checkbox"/> No		
14.11	Whether scheduled switch to fallback connectivity is done and the record thereof is maintained?	<input type="checkbox"/> Yes <input type="checkbox"/> No		
14.12	Whether all the hardware / equipments used for depository operations are covered under AMC/ warranty?	<input type="checkbox"/> Yes <input type="checkbox"/> No	If no, then mention whether the participant has given the prescribed undertaking to NSDL	
14.13	Whether UPS / alternate power arrangement is available for all the hardware / equipments used for depository operations?	<input type="checkbox"/> Yes <input type="checkbox"/> No		
14.14	Whether adequate physical and logical access restrictions for usage of system are in place?	<input type="checkbox"/> Yes <input type="checkbox"/> No		

<i>Sr. No.</i>	<i>Audit Areas</i>	<i>Auditor's Observation</i>	<i>Auditor's Remarks</i>	<i>Management's Comment</i>
14.15	Whether backup of back office data is taken ?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N.A.		
14.16	Whether back office is directly connected to DPM system?	<input type="checkbox"/> Yes <input type="checkbox"/> No		
14.17	If reply to 14.16 <sup>2</sup> is yes, whether it is in accordance with NSDL guidelines?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N.A.	If no, then details of non compliance must be mentioned here	
14.18	Whether atleast one staff managing the systems is NSDL trained?	<input type="checkbox"/> Yes <input type="checkbox"/> No		

**Important Reference (only illustrative, not exhaustive) -**

1. NSDL Bye laws and Business Rules
2. Compliance Manual
3. Circular No. NSDL / POLICY/2012/0018 dated February 9, 2012 - Master Circular on 'Account Opening'.
4. Circular No. NSDL / POLICY/2009/0082 dated September 9, 2009 - Master Circular on 'Delivery Instruction Slip'.
5. Circular No. NSDL / POLICY/2011/0005 dated January 10, 2011 - Master Circular on Anti Money Laundering and Combating Financing of Terrorism.
6. Other circulars issued by NSDL time to time.

**Management's Comment\* - Mandatory if auditor's observation is negative.**

## *Appendices*

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**THE DEPOSITORIES ACT, 1996\***

[22 OF 1996]

*An Act to provide for regulation of depositories in securities and for matters connected therewith or incidental thereto.*

*BE it enacted by Parliament in the Forty-Seventh Year of the Republic of India as follows :-*

## CHAPTER I

**Preliminary****1. Short title, extent and commencement**

- (1) This Act may be called the Depositories Act, 1996.
- (2) It extends to the whole of India.
- (3) It shall be deemed to have come into force on the 20th day of September 1995.

**2. Definitions**

- (1) In this Act, unless the context otherwise requires, -
  - (a) "beneficial owner" means a person whose name is recorded as such with a depository;
  - (b) "Board" means the Securities and Exchange Board of India established under section 3 of the Securities and Exchange Board of India Act, 1992 (15 of 1992);
  - (c) "bye-laws" means bye-laws made by a depository under section 26;
  - (d) "Company Law Board" means the Board of Company Law Administration constituted under section 10E of the Companies Act, 1956 (1 of 1956);
  - (e) "depository" means a company formed and registered under the Companies Act, 1956 and which has been granted a certificate of registration under sub-section (1A) of section 12 of the Securities and Exchange Board of India Act, 1992 (15 of 1992) ;
  - (f) "issuer" means any person making an issue of securities;

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\* *Published in the Gazette of India (no.51) dated August 12, 1996 (Amended till date)*

- (g) "participant" means a person registered as such under sub-section (1A) of section 12 of the Securities and Exchange Board of India Act, 1992 (15 of 1992);
  - (h) "prescribed" means prescribed by rules made under this Act;
  - (i) "record" includes the records maintained in the form of books or stored in a computer or in such other form as may be determined by regulations;
  - (j) "registered owner" means a depository whose name is entered as such in the register of the issuer;
  - (k) "regulations" means the regulations made by the Board;
  - (ka) "Securities Appellate Tribunal" means a Securities Appellate Tribunal established under sub-section (1) of Section 15k of the Securities and Exchange Board of India Act, 1992; (15 of 1992);
  - (l) "security" means such security as may be specified by the Board;
  - (m) "service" means any service connected with recording of allotment of securities or transfer of ownership of securities in the record of a depository.
- (2) Words and expressions used herein and not defined but defined in the Companies Act, 1956 (1 of 1956) or the Securities Contracts (Regulation) Act, 1956 (42 of 1956) or the Securities and Exchange Board of India Act, 1992 (15 of 1992), shall have the meanings respectively assigned to them in those Act.

## CHAPTER II

### **Certificate of Commencement of Business**

#### **3. *Certificate of commencement of business by depositories***

- (1) No depository shall act as a depository unless it obtains a certificate of commencement of business from the Board;
- (2) A certificate granted under sub-section (1) shall be in such form as may be specified by the regulations;
- (3) The Board shall not grant a certificate under sub-section (1) unless it is satisfied that the depository has adequate systems and safeguards to prevent manipulation of records and transactions.

Provided that no certificate shall be refused under this section unless the depository concerned has been given a reasonable opportunity of being heard.

### CHAPTER III

#### **Rights and Obligations of Depositories Participants Issuers and Beneficial Owners**

##### **4. Agreement between depository and participant**

- (1) A depository shall enter into an agreement with one or more participants as its agent.
- (2) Every agreement under sub-section (1) shall be in such form as may be specified by the bye-laws.

##### **5. Services of depository**

Any person, through a participant, may enter into an agreement, in such form as may be specified by the bye-laws, with any depository for availing its services.

##### **6. Surrender of certificate of security**

- (1) Any person who has entered into an agreement under section 5 shall surrender the certificate of security, for which he seeks to avail the services of a depository, to the issuer in such manner as may be specified by the regulations.
- (2) The issuer, on receipt of certificate of security under sub-section (1), shall cancel the certificate of security and substitute in its records the name of the depository as a registered owner in respect of that security and inform the depository accordingly.
- (3) A depository shall, on receipt of information under sub-section (2), enter the name of the person referred in sub-section (1) in its records, as the beneficial owner.

##### **7. Registration of transfer of securities with depository**

- (1) Every depository shall, on receipt of intimation from a participant, register the transfer of security in the name of the transferee.
- (2) If a beneficial owner or a transferee of any security seeks to have custody of such security, the depository shall inform the issuer accordingly.

##### **8. Options to receive security certificate or hold securities with depository**

- (1) Every person subscribing to securities offered by an issuer

shall have the option either to receive the security certificates or hold securities with a depository.

- (2) Where a person opts to hold a security with a depository, the issuer shall intimate such depository the details of allotment of the security, and on receipt of such information the depository shall enter in its records the name of the allottee as the beneficial owner of that security.

**9. Securities in depositories to be in fungible form**

- (1) All securities held by a depository shall be dematerialised and shall be in a fungible form.
- (2) Nothing contained in sections 153, 153A, 153B, 187B, 187C, and 372 of the Companies Act, shall apply to a depository in respect of securities held by it on behalf of the beneficial owners."

**10. Rights of depositories and beneficial owner**

- (1) Notwithstanding anything contained in any other law for the time being in force, a depository shall be deemed to be the registered owner for the purposes of effecting transfer of ownership of security on behalf of a beneficial owner.
- (2) Save as otherwise provided in sub-section (1), the depository as a registered owner shall not have any voting rights or any other rights in respect of securities held by it.
- (3) The beneficial owner shall be entitled to all the rights and benefits and be subjected to all the liabilities in respect of his securities held by a depository.

**11. Register of beneficial owner**

Every depository shall maintain a register and an index of beneficial owners in the manner provided in sections 150, 151 and 152 of the Companies Act, 1956.

**12. Pledge or hypothecation of securities held in a depository**

- (1) Subject to such regulations and bye-laws, as may be made in this behalf, a beneficial owner may with the previous approval of the depository create a pledge or hypothecation in respect of a security owned by him through a depository.
- (2) Every beneficial owner shall give intimation of such pledge or hypothecation to the depository and such depository shall thereupon make entries in its records accordingly.
- (3) Any entry in the records of a depository under sub-section (2) shall be evidence of a pledge or hypothecation.

**13. *Furnishing of information and records by depository and issuer***

- (1) Every depository shall furnish to the issuer information about the transfer of securities in the name of beneficial owners at such intervals and in such manner as may be specified by the bye-laws.
- (2) Every issuer shall make available to the depository copies of the relevant records in respect of securities held by such depository.

**14. *Option to opt out in respect of any security***

- (1) If a beneficial owner seeks to opt out of a depository in respect of any security he shall inform the depository accordingly.
- (2) The depository shall on receipt of intimation under sub-section (1) make appropriate entries in its records and shall inform the issuer.
- (3) Every issuer shall, within thirty days of the receipt of intimation from the depository and on fulfilment of such conditions and on payment of such fees as may be specified by the regulations, issue the certificate of securities to the beneficial owner or the transferee, as the case may be.

**15. *Bankers' Books Evidence Act, 1891 to apply to depositories***

The Bankers' Books Evidence Act, 1891 shall apply in relation to a depository as if it were a bank as defined in section 2 of that Act.

**16. *Depositories to indemnify loss in certain cases***

- (1) Without prejudice to the provisions of any other law for the time being in force, any loss caused to the beneficial owner due to the negligence of the depository or the participant, the depository shall indemnify such beneficial owner.
- (2) Where the loss due to the negligence of the participant under sub-section (1) is indemnified by the depository, the depository shall have the right to recover the same from such participant.

**17. *Rights and obligations of depositories, etc.***

- (1) Subject to the provisions of this Act, the rights and obligations of the depositories, participants and the issuer whose securities are dealt with by a depository shall be specified by the regulations.
- (2) The eligibility criteria for admission of securities into the depository shall be specified by the regulations.

## CHAPTER IV

**Enquiry and Inspection****18. Power of Board to call for information and enquiry**

- (1) The Board, on being satisfied that it is necessary in the public interest or in the interest of investors so to do, may, by order in writing —
  - (a) call upon any issuer, depository, participant or beneficial owner to furnish in writing such information relating to the securities held in a depository as it may require; or
  - (b) authorise any person to make an enquiry or inspection in relation to the affairs of the issuer, beneficial owner, depository or participant, who shall submit a report of such enquiry or inspection to it within such period as may be specified in the order.
- (2) Every director, manager, partner, secretary, officer or employee of the depository or issuer or the participant or beneficial owner shall on demand produce before the person making the enquiry or inspection all information or such records and other documents in his custody having a bearing on the subject matter of such enquiry or inspection.

**19. Power of Board to give directions in certain cases**

Save as provided in this Act, if after making or causing to be made an enquiry or inspection, the Board is satisfied that it is necessary-

- (i) in the interest of investors, or orderly development of securities market; or
- (ii) to prevent the affairs of any depository or participant being conducted in the manner detrimental to the interests of investors or securities market, it may issue such directions -
  - (a) to any depository or participant or any person associated with the securities market; or
  - (b) to any issuer, as may be appropriate in the interest of investors or the securities market.

**19A. Penalty for failure to furnish information, return, etc.**

Penalty for failure to furnish information, return, etc.—Any person, who is required under this Act or any rules or regulations or bye laws made thereunder,—

- (a) to furnish any information, document, books, returns or report

to the Board, fails to furnish the same within the time specified therefor, he shall be liable to a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less for each such failure;

- (b) to file any return or furnish any information, books or other documents within the time specified therefor in the regulations or the bye laws, fails to file return or furnish the same within the time specified therefor, he shall be liable to a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less;
- (c) to maintain books of account or records, fails to maintain the same, he shall be liable to a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less.

**19B. Penalty for failure to enter into an agreement**

If a depository or participant or any issuer or its agent or any person, who is registered as an intermediary under the provisions of section 12 of the Securities and Exchange Board of India Act, 1992 (15 of 1992), and is required under this Act or any rules or regulations made thereunder, to enter into an agreement, fails to enter into such agreement, such depository or participant or issuer or its agent or intermediary shall be liable to a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less for every such failure.

**19C. Penalty for failure to redress Investors' grievances**

If any depository or participant or any issuer or its agent or any person, who is registered as an intermediary under the provisions of section 12 of the Securities and Exchange Board of India Act, 1992 (15 of 1992), after having been called upon by the Board in writing, to redress the grievances of the investors, fails to redress such grievances within the time specified by the Board, such depository or participant or issuer or its agent or intermediary shall be liable to a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less.

**19D. Penalty for delay in dematerialisation or issue of certificate of securities**

If any issuer or its agent or any person, who is registered as an intermediary under the provisions of section 12 of the Securities and Exchange Board of India Act, 1992 (15 of 1992), fails to dematerialise or issue the certificate of securities on opting out of

a depository by the investors, within the time specified under this Act or regulations or bye laws made thereunder or abets in delaying the process of dematerialisation or issue the certificate of securities on opting out of a depository of securities, such issuer or its agent or intermediary shall be liable to a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less.

**19E. Penalty for failure to reconcile records**

If a depository or participant or any issuer or its agent or any person, who is registered as an intermediary under the provisions of section 12 of the Securities and Exchange Board of India Act, 1992 (15 of 1992), fails to reconcile the records of dematerialised securities with all the securities issued by the issuer as specified in the regulations, such depository or participant or issuer or its agent or intermediary shall be liable to a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less.

**19F. Penalty for failure to comply with directions issued by Board under section 19 of the Act**

If any person fails to comply with the directions issued by the Board under section 19, within the time specified by it, he shall be liable to a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less.

**19G. Penalty for contravention where no separate penalty has been provided**

Whoever fails to comply with any provision of this Act, the rules or regulations or bye laws made or directions issued by the Board thereunder for which no separate penalty has been provided, shall be liable to a penalty which may extend to one crore rupees.

**19H. Power to adjudicate**

- (1) For the purpose of adjudging under sections 19A, 19B, 19C, 19D, 19E, 19F and 19G, the Board shall appoint any officer not below the rank of a Division Chief of the Securities and Exchange Board of India to be an adjudicating officer for holding an inquiry in the prescribed manner after giving any person concerned a reasonable opportunity of being heard for the purpose of imposing any penalty.
- (2) While holding an inquiry, the adjudicating officer shall have 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 adjudicating officer, may be useful for or relevant to the subject-matter of the inquiry and if, on such inquiry, he is satisfied that the person has failed to comply with the provisions of any of the sections specified in sub-section (1), he may impose such penalty as he thinks fit in accordance with the provisions of any of those sections.

**19 I. Factors to be taken into account by adjudicating officer**

While adjudging the quantum of penalty under section 19H, 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.

**19J. Crediting sums realised by way of penalties to Consolidated Fund of India**

All sums realised by way of penalties under this Act shall be credited to the Consolidated Fund of India.

CHAPTER V

**Penalty**

**20. Offences**

- (1) Without prejudice to any award of penalty by the adjudicating officer under this Act, if any person contravenes or attempts to contravene or abets the contravention of the provisions of this Act or of any rules or regulations or bye-laws made there under, he shall be punishable with imprisonment for a term which may extend to ten years, or with fine, which may extend to twenty-five crore rupees, or with both.
- (2) If any person fails to pay the penalty imposed by the adjudicating officer or fails to comply with any of his directions or orders, he shall be punishable with imprisonment for a term which shall not be less than one month but which may extend to ten years, or with fine, which may extend to twenty-five crore rupees, or with both."

**21. Offences by companies**

- (1) Where an offence under this Act has been committed by a

company, every person who at the time the offence was committed was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly;

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

- (2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

*Explanation* - For the purpose of this section, -

- (a) "company" means any body corporate and includes a firm or other association of individuals; and  
 (b) "director" in relation to a firm, means a partner in the firm.

## CHAPTER VI

### Miscellaneous

#### **22. Cognizance of offences by courts**

- (1) No court shall take cognizance of any offence punishable under this Act or any rules or regulations or bye-laws made thereunder, save on a complaint made by the Central Government or State Government or the Securities and Exchange Board of India or by any person.
- (2) No court inferior to that of a Court of Session shall try any offence punishable under this Act.

#### **22A. Composition of certain offences**

Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), any offence punishable under this Act, not being an offence punishable with imprisonment only, or

with imprisonment and also with fine, may either before or after the institution of any proceeding, be compounded by a Securities Appellate Tribunal or a court before which such proceedings are pending.

**22B. Power to grant immunity**

- (1) The Central Government may, on recommendation by the Board, if the Central Government is satisfied, that any person, who is alleged to have violated any of the provisions of this Act or the rules or the regulations made there under, has made a full and true disclosure in respect of alleged violation, grant to such person, subject to such conditions as it may think fit to impose immunity from prosecution for any offence under this Act, or the rules or the regulations made thereunder or also from the imposition of any penalty under this Act with respect to the alleged violation :

Provided that no such immunity shall be granted by the Central Government in cases where the proceedings for (he prosecution for any such offence have been instituted before the date of receipt of application for grant of such immunity :

Provided further that recommendation of the Board under this sub-section shall not be binding upon the Central Government.

- (2) An immunity granted to a person under sub-section (1) may, at any time, be withdrawn by the Central Government, if it is satisfied that such person had, in the course of the proceedings, not complied with the condition on which the immunity was granted or had given false evidence, and thereupon such person may be tried for the offence with respect to which the immunity was granted or for any other offence of which he appears to have been guilty in connection with the contravention and shall also become liable to the imposition of any penalty under this Act to which such person would have been liable, had not such immunity been granted."

**23. Appeals**

- (1) Any person aggrieved by an order of the Board made before the commencement of the Securities Laws(Second Amendment) Act, 1999 under this Act, or the regulations made thereunder may prefer an appeal to the Central Government within such time as may be prescribed.
- (2) No appeal shall be admitted if it is preferred after the expiry of the period prescribed therefor;

Provided that an appeal may be admitted after the expiry of the period prescribed therefor if the appellant satisfies the Central Government that he had sufficient cause for not preferring the appeal within the prescribed period.

- (3) Every appeal made under this section shall be made in such form and shall be accompanied by a copy of the order appealed against and by such fees as may be prescribed.
- (4) The procedure for disposing of an appeal shall be such as may be prescribed :

Provided that before disposing of an appeal the appellant shall be given a reasonable opportunity of being heard.

### **23A. Appeal to Securities Appellate Tribunal**

- (1) Save as provided in sub-section (2), any person aggrieved by an order of the Board made, on or after the commencement of the Securities Laws (Second Amendment) Act, 1999, under this Act or the regulations made thereunder, or by an order made by an adjudicating officer under this Act, may prefer an appeal to Securities Appellate Tribunal having jurisdiction in the matter.
- (2) No appeal shall lie to the Securities Appellate Tribunal from an order made by the Board with the consent of the parties.
- (3) Every appeal under sub-section (1) shall be filed within a period of forty-five days from the date on which a copy of the order made by the Board is received by the person referred to in sub-section (1) and it shall be in such form and be accompanied by such fee as may be prescribed:  
  
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.
- (4) On receipt of an appeal under sub-section (1), the Securities Appellate Tribunal may, after giving the parties to the appeal an opportunity of being heard, pass such orders thereon as it thinks fit, confirming, modifying or setting aside the order appealed against.
- (5) The Securities Appellate Tribunal shall send a copy of every order made by it to the Board and parties to the appeal.
- (6) The appeal filed before the Securities Appellate Tribunal under sub-section (1) shall be dealt with by it as expeditiously as possible and endeavour shall be made by it to dispose of the

appeal finally within six months from the date of receipt of the appeal.

**23B. Procedure and powers of the Securities Appellate Tribunal**

- (1) The Securities Appellate Tribunal shall not be bound by the procedure laid down by the Code of Civil Procedure, 1908 (5 of 1908), but shall be guided by the principles of natural justice and, subject to the other provisions of this Act and of any rules, the Securities Appellate Tribunal shall have powers to regulate their own procedure including the places at which they shall have their sittings.
- (2) The Securities Appellate Tribunal shall have, for the purpose of discharging their functions under this Act, the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 (5 of 1908), while trying a suit, in respect of the following matters, namely : -
  - (a) summoning and enforcing the attendance of any person and examining on oath;
  - (b) requiring the discovery and production of documents;
  - (c) receiving evidence on affidavits;
  - (d) issuing commissions for the examination of witnesses or documents;
  - (e) reviewing its decisions;
  - (f) dismissing an application for default or deciding it ex parte;
  - (g) setting aside any order of dismissal of any application for default or any order passed by it ex parte;
  - (h) any other matter which may be prescribed.
- (3) Every proceeding before the Securities Appellate Tribunal shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228, and for the purposes of section 196 of the Indian Penal Code, 1860 (45 of 1860) and the Securities Appellate Tribunal shall be deemed to be a civil court for all purposes of section 195 and Chapter XXVI of the Code of Civil Procedure, 1973 (2 of 1943).

**23C. Right to Legal Representation**

The appellant may either appear in person or authorise one or more Chartered Accountants or Company Secretaries or Cost Accountants or Legal Practitioners or any of its officers to present his or its case before the Securities Appellate Tribunal.

*Explanation* - For the purposes of this section,-

- (a) "chartered accountant" means a chartered accountant as defined in clause (b) of sub- section (1) of Section 2 of the Chartered Accountants Act, 1949 (38 of 1949) and who has obtained a certificate of practice under sub-section (1) of section 6 of that Act;
- (b) "company secretary" means a company secretary as defined in clause (c) of sub- section (1) of section 2 of the Company Secretaries Act, 1980(56 of 1980) and who has obtained a certificate of practice under sub-section (1) of section 6 of that Act;
- (c) "cost accountant" means a cost accountant as defined in clause (b) of sub- section (1) of section 2 of the Cost and Works Accountants Act, 1959 (23 of 1959) and who has obtained a certificate of practice under sub-section (1) of section 6 of that Act;
- (d) "legal practitioner" means an advocate, vakil or an attorney of any High Court, and includes a pleader in practice.

**23D. Limitation**

The provisions of the Limitation Act, 1963 (36 of 1963) shall, as far as may be, apply to an appeal made to a Securities Appellate Tribunal.

**23E. Civil Court not to have jurisdiction**

No civil court shall have jurisdiction to entertain any suit or proceeding in respect of any matter which a Securities Appellate Tribunal is empowered by or under this Act to determine and no injunction shall be granted by any court or other authority in respect of any action taken or to be taken in pursuance of any power conferred by or under this Act.

**23F. Appeal to High Court**

Any person aggrieved by any decision or order of the Securities Appellate Tribunal may file an appeal to the Supreme Court within sixty days from the date of communication of the decision or order of the Securities Appellate Tribunal to him on any question of law arising out of such order :

Provided that the Supreme Court may, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal within the said period, allow it to be filed within a further period not exceeding sixty days.

**24. Power of Central Government to make rules**

- (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Act.
- (2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:-
  - (a) the manner of inquiry under sub-section (1) of section 19H;
  - (aa) the time within which an appeal may be preferred under sub-section (1) of section 23;
  - (b) the form in which an appeal may be preferred under sub-section (3) of section 23 and the fees payable in respect of such appeal;
  - (c) the procedure for disposing of an appeal under sub-section (4) of section 23;
  - (d) the form in which an appeal may be filed before the Securities Appellate Tribunal under Section 23A and the fees payable in respect of such appeal.

**25. Power of Board to make regulations**

- (1) Without prejudice to the provisions contained in section 30 of the Securities and Exchange Board of India Act, 1992, the Board may, by notification in the Official Gazette, make regulations consistent with the provisions of this Act and the rules made thereunder to carry out the purposes of this Act.
- (2) In particular, and without prejudice to the generality of the foregoing power, such regulations may provide for -
  - (a) the form in which record is to be maintained under clause (i) of sub-section (1) of section 2;
  - (b) the form in which the certificate of commencement of business shall be issued under sub-section (2) of section 3;
  - (c) the manner in which the certificate of security shall be surrendered under sub-section (1) of section 6;
  - (d) the manner of creating a pledge or hypothecation in respect of security owned by a beneficial owner under sub-section (1) of section 12;

- (e) the conditions and the fees payable with respect to the issue of certificate of securities under sub-section (3) of section 14;
- (f) the rights and obligations of the depositories, participants and the issuers under sub-section (1) of section 17;
- (g) the eligibility criteria for admission of securities in the depository under sub-section (2) of section 17.

**26. Power of depositories to make bye-laws**

- (1) A depository shall, with the previous approval of the Board, make bye-laws consistent with the provisions of this Act and the regulations.
- (2) In particular, and without prejudice to the generality of the foregoing power, such bye-laws shall provide for -
  - (a) the eligibility criteria for admission and removal of securities in the depository;
  - (b) the conditions subject to which the securities shall be dealt with;
  - (c) the eligibility criteria for admission of any person as a participant;
  - (d) the manner and procedure for dematerialisation of securities;
  - (e) the procedure for transactions within the depository;
  - (f) the manner in which securities shall be dealt with or withdrawn from a depository;
  - (g) the procedure for ensuring safeguards to protect the interests of participants and beneficial owners;
  - (h) the conditions of admission into and withdrawal from a participant by a beneficial owner;
  - (i) the procedure for conveying information to the participants and beneficial owners on dividend declaration, shareholder meetings and other matters of interest to the beneficial owners;
  - (j) the manner of distribution of dividends, interest and monetary benefits received from the company among beneficial owners;
  - (k) the manner of creating pledge or hypothecation in respect of securities held with a depository;



- (l) *inter se* rights and obligations among the depository, issuer, participants and beneficial owners;
  - (m) the manner and the periodicity of furnishing information to the Board, issuer and other persons;
  - (n) the procedure for resolving disputes involving depository, issuer, company or a beneficial owner;
  - (o) the procedure for proceeding against the participant committing breach of the regulations and provisions for suspension and expulsion of participants from the depository and cancellation of agreements entered with the depository;
  - (p) the internal control standards including procedure for auditing, reviewing and monitoring.
- (3) Where the Board considers it expedient so to do, it may, by order in writing, direct a depository to make any bye-laws or to amend or revoke any bye-laws already made within such period as it may specify in this behalf.
- (4) If the depository fails or neglects to comply with such order within the specified period, the Board may make the bye-laws or amend or revoke the bye-laws made either in the form specified in the order or with such modifications thereof as the Board thinks fit.

## **27. Rules and regulations to be laid before Parliament**

Every rule and every regulation made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or regulation or both Houses agree that the rule or regulation should not be made, the rule or regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be, so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or regulation.

## **28. Application of other laws not barred**

The provisions of this Act shall be in addition to, and not in derogation of, any other law for the time being in force relating to the holding and transfer of securities.

**29. Removal of difficulties**

- (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act as appear to it to be necessary or expedient for removing the difficulty:

Provided that no order shall be made under this section after the expiry of a period of two years from the commencement of this Act.

- (2) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.

**30. Amendments to certain enactments**

[Repealed by the Repealing and Amending Act, 2001].

**31. Repeal and saving**

- (1) The Depositories (Third) Ordinance, 1996 is hereby repealed.
  - (2) Notwithstanding such repeal, anything done or any action taken under the said Ordinance shall be deemed to have been done or taken under the corresponding provisions of this Act.
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**SECURITIES AND EXCHANGE BOARD OF INDIA  
(DEPOSITORIES AND PARTICIPANTS)  
REGULATIONS, 1996\***

In exercise of the powers conferred by section 30 of the Securities and Exchange Board of India Act, 1992 (15 of 1992) read with section 25 of the Depositories Act, 1996 (17 of 1996), the Securities and Exchange Board of India hereby makes the following regulations, namely:-

CHAPTER I

**Preliminary**

**1. Short title and commencement :**

- (1) These regulations may be called the Securities and Exchange Board of India (Depositories and Participants) Regulations, 1996.
- (2) They shall come into force on the date of their publication in the Official Gazette.

**2. Definitions :**

- (1) In these regulations, unless the context otherwise requires, -
  - (a) "Act" means the Securities and Exchange Board of India Act, 1992 (15 of 1992);
  - (aa) "change in control" –
    - (i) in case of a body corporate –
      - (A) if its shares are listed on any recognised stock exchange, shall be construed with reference to the definition of control in terms of regulations framed under clause (h) of sub-section (2) of section 11 of the Act;
      - (B) in any other case, shall be construed as change in the controlling interest in the body corporate;

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\* Issued by SEBI vide notification S.O. 345(E) dated 16th May, 1996.

*Explanation* : For the purpose of para (B) of this sub-clause, the expression "controlling interest" means an interest, whether direct or indirect, to the extent of at least fifty-one percent of voting rights in the body corporate;

- (ii) in a case other than that of a body corporate, shall be construed as any change in its legal formation or ownership.
- (b) "Depositories Act" means the Depositories Act, 1996 (22 of 1996);
- (c) Omitted;
- (d) "Form" means any of the forms specified in the First Schedule;
- (e) "Inspecting officer" means any person authorised by the Board under regulation 59;
- (f) "Schedule" means any of the Schedules annexed to these regulations;
- (g) "Sponsor" means any person or persons who, acting alone or in combination with another person proposes to establish a depository and undertakes to perform the obligations of a sponsor under these regulations.

*Explanation.*- Any person who, acting alone or in combination with others holds not less than fifty one percent of the share capital of the depository as a sponsor and undertakes to perform the obligation under these regulations shall be deemed to be a sponsor for the purpose of these regulations.

- (2) Words and expressions used and not defined in these regulations but defined in the Act or in the Depositories Act shall have the meanings respectively assigned to them in the Act or the Depositories Act.

## CHAPTER II

### **Registration of Depository**

#### **3. Application for grant of certificate of registration**

- (1) An application for the grant of a certificate of registration as a depository shall be made to the Board by the sponsor in Form A, shall be accompanied by the fee specified in Part A of the

Second Schedule and be paid in the manner specified in Part B thereof.

- (2) The application shall be accompanied by draft bye-laws of the depository that is proposed to be set up.

#### **4. Application to conform to the requirements**

An application in Form A which is not complete in all respects and does not conform to the instructions specified therein shall be rejected:

Provided that before rejecting any such application, the sponsor shall be given in writing an opportunity to remove, within thirty days of the date of communication in this regard, the objections indicated by the Board :

Provided further that the Board may, on being satisfied that it is necessary to extend the period specified in the first proviso, extend such period by such further time as it thinks necessary in order to enable the applicant to remove the objections indicated by the Board.

#### **5. Furnishing of information, clarification and personal representation**

- (1) The Board may require the sponsor to furnish such further information or clarification regarding matters relevant to the activity of the depository for the purpose of consideration of the application.
- (2) The sponsor or his authorised representative shall, if so required, appear before the Board for personal representation, in connection with the grant of certificate of registration.

#### **6. Consideration of application for grant of certificate of registration**

The Board shall not consider an application under regulation 3, unless the sponsor belongs to one of the following categories, namely :-

- (i) a public financial institution as defined in section 4A of the Companies Act, 1956 (1 of 1956);
- (ii) a bank included for the time being in the Second Schedule to the Reserve Bank of India Act, 1934 (2 of 1934);
- (iii) a foreign bank operating in India with the approval of the Reserve Bank of India;
- (iv) a recognised stock exchange within the meaning of clause (i)

of section 2 of the Securities Contracts (Regulation) Act, 1956 (42 of 1956);

- (v) a body corporate engaged in providing financial services where not less than seventy five percent of the equity capital is held by any of the institutions mentioned in sub-clause (i), (ii), (iii) or (iv) jointly or severally;
- (vi) a body corporate constituted or recognised under any law for the time being in force in a foreign country for providing custodial, clearing or settlement services in the securities market and approved by the Central Government;
- (vi) an institution engaged in providing financial services established outside India and approved by the Central Government; or
- (vii) the applicant is a fit and proper person.

**6A. Criteria for fit and proper person**

For the purpose of determining whether an applicant or the depository and participant is a fit and proper person the Board may take into account the criteria specified in Schedule II of the Securities and Exchange Board of India (Intermediaries) Regulations, 2008.

**7. Grant of certificate of registration**

After considering the application under regulation 3, with reference to the qualifications specified in regulation 6, if the Board is satisfied that the company established by the sponsor is eligible to act as depository, it may grant a certificate of registration in Form B to the depository subject to the following, namely: -

- (a) the depository shall pay the registration fee specified in part A of the Second Schedule in the manner specified in Part B thereof, within fifteen days of receipt of intimation from the Board;
- (b) the depository shall comply with the provisions of the Act, the Depositories Act, the bye-laws, agreements and these regulations;
- (c) the depository shall not carry on any activity other than that of a depository unless the activity is incidental to the activity of the depository;

Provided that a depository may carry out such activity not incidental to its activities as a depository, as may be assigned to the depository by the Central Government or by a regulator

in the financial sector, through the establishment of Strategic Business Unit(s) specific to each activity with the prior approval of the Board and subject to such conditions as may be prescribed by the Board, including transfer of such activity to a separate company within such time as may be specified by the Board, having regard to the matters which are relevant to the efficient and orderly function of the Depository as mentioned in regulation 13.

*Explanation* : For the purposes of this clause, a Strategic Business Unit shall be an organizational unit of a company with its own mission, objectives and business strategy that is given the responsibility to serve the particular demands of one business area with appropriate technological, financial and other segregations.

- (d) the sponsor shall, at all times, hold at least fifty-one per cent of the equity share capital of the depository.
- (e) no participant shall at any time, hold more than five per cent of the equity capital of the depository;
- (ea) no person other than a sponsor, whether resident in India or not, shall at any time, either individually or together with persons acting in concert, hold more than five percent of the equity share capital in the depository;

*Explanation*: For the purposes of this clause, -

- (i) the expression "person resident in India" shall have the meaning assigned to it in clause (v) of section 2 of the Foreign Exchange Management Act, 1999 (42 of 1999);
  - (ii) the expression "persons acting in concert" shall have the meaning derived from clause (e) of sub-regulation (1) of regulation 2 of the Securities and Exchange Board of India (Substantial Acquisition of Shares and Takeovers) Regulations, 1997;\*
- (eb) the combined holding of all persons resident outside India in the equity share capital of the depository shall not exceed, at any time, forty-nine per cent. of its total equity share capital, subject further to the following:-
- (i) the combined holdings of such persons acquired through the foreign direct investment route is not more than

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\* SEBI, (Substantial Acquisition of Shares and Takeovers) Regulations, 1997 has since been replaced by SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 2011.

- twenty six per cent. of the total equity share capital, at any time;
- (ii) the combined holdings of foreign institutional investors is not more than twenty three per cent. of the total equity share capital, at any time;
  - (iii) no foreign institutional investor acquires shares of the depository otherwise than through the secondary market;
- (ec) no foreign institutional investor shall have any representation in the Board of Directors of the depository;
- (f) if any information previously submitted by the depository or the sponsor to the Board is found to be false or misleading in any material particular, or if there is any change in such information, the depository shall forthwith inform the Board in writing;
- (g) the depository shall redress the grievances of the participants and the beneficial owners within thirty days of the date of receipt of any complaint from a participant or a beneficial owner and keep the Board informed about the number and the nature of redressals;
- (h) the depository shall make an application for commencement of business under regulation 14 within one year from the date of grant of certificate of registration under this regulation; and
- (i) the depository shall amend its bye-laws from time to time as may be directed by the Board.

#### **8. Payment of annual fee**

A depository who has been granted a certificate of registration under regulation 7, shall pay annual fee specified in Part A of the Second Schedule in the manner specified in Part B thereof.

#### **9. Procedure where certificate of registration is not granted**

- (1) Where an application for the grant of certificate of registration under regulation 3 does not satisfy the requirements specified in regulation 7, the Board shall reject the application after giving the applicant an opportunity of being heard.
- (2) The decision of the Board to reject the application shall be communicated to the applicant in writing within thirty days of such decision, stating therein the grounds on which the application has been rejected.



## CHAPTER III

**Certificate of Commencement of Business****10. Application for grant of certificate of commencement of business**

A depository which has been granted a certificate of registration under regulation 7, shall within one year from the date of issue of such certificate make an application to the Board for commencement of business in Form C.

**11. Application to conform to the requirements**

Any application in Form C which is not complete in all respects and does not conform to instructions specified therein shall be rejected:

Provided that before rejecting any such application, the applicant shall be given in writing an opportunity to remove within thirty days of the date of communication in this regard, the objections indicated by the Board.

Provided further that the Board may, on being satisfied that it is necessary to extend the period specified in the first proviso, extend such period by such further time as it thinks necessary in order to enable the applicant to remove the objections indicated by the Board.

**12. Furnishing of information, clarification, and personal representation :**

- (1) The Board may require the depository to furnish such further information or clarification regarding matters relevant for the grant of certificate of commencement of business.
- (2) The depository or its authorised representative, if so required, shall appear before the Board for personal representation in connection with the grant of certificate of commencement of business.

**13. Consideration of application for grant of certificate of commencement of business**

- (1) The Board shall take into account for considering grant of certificate of commencement of business, all matters which are relevant to the efficient and orderly functioning of the depository and in particular, the following, namely, whether:-
  - (a) the depository has a net worth of not less than rupees one hundred crores;

- (b) the bye-laws of the depository have been approved by the Board;
  - (c) the automatic data processing systems of the depository have been protected against unauthorised access, alteration, destruction, disclosure or dissemination of records and data;
  - (d) the network through which continuous electronic means of communications are established between the depository, participants, issuers and issuers' agents is secure against unauthorised entry or access;
  - (e) the depository has established standard transmission and encryption formats for electronic communications of data between the depository, participants, issuers and issuers' agents;
  - (f) the physical or electronic access to the premises, facilities, automatic data processing systems, data storage sites and facilities including back up sites and facilities and to the electronic data communication network connecting the depository, participants, issuers and issuers' agents is controlled, monitored and recorded;
  - (g) the depository has a detailed operations manual explaining all aspects of its functioning, including the interface and method of transmission of information between the depository, issuers, issuers' agents, participants and beneficial owners;
  - (h) the depository has established adequate procedures and facilities to ensure that its records are protected against loss or destruction and arrangements have been made for maintaining back up facilities at a location different from that of the depository;
  - (i) the depository has made adequate arrangements including insurance for indemnifying the beneficial owners for any loss that may be caused to such beneficial owners by the wrongful act, negligence or default of the depository or its participants or of any employee of the depository or participant; and
  - (j) the grant of certificate of commencement of business is in the interest of investors in the securities market.
- (2) The Board shall, before granting a certificate of commencement of business under this Chapter make a physical verification of the infrastructure facilities and systems established by the depository.

**14. Grant of certificate of commencement of business**

After considering the application under regulation 13 with reference to the matters specified in sub-regulation (1) of regulation 13 and making physical verification under sub-regulation (2) of that regulation, if the Board is satisfied that the depository is eligible to commence business as a depository, shall grant a certificate of commencement of business in Form D.

**15. Procedure where certificate of commencement of business is not granted**

- (1) If the Board, after considering the matters specified in sub-regulation (1) of regulation 13 and making physical verification under sub-regulation (2) of that regulation, is of the opinion that the depository shall not be granted a certificate of commencement of business, it may either-
  - (a) direct the depository to conform to the matters specified in regulation 13; or
  - (b) reject the application after giving the applicant an opportunity of being heard.
- (2) The decision of the Board to reject the application shall be communicated to the depository in writing within thirty days of such decision, stating therein the grounds on which the application has been rejected.

## CHAPTER IV

**Registration of Participant****16. Application for grant of certificate of initial registration**

- (1) An application for the grant of a certificate of initial registration as a participant shall be made to the Board in Form E, through each depository in which the applicant proposes to act as a participant, shall be accompanied by the fee specified in Part A of the Second Schedule and be paid in the manner specified in Part B thereof.
- (2) The depository shall forward to the Board the application in Form E as early as possible, but not later than thirty days along with its recommendations and certifying that the participant complies with the eligibility criteria including adequate infrastructure as provided for in these regulations and the bye-laws of the depository.

**17. Application to conform to the requirements**

An application in Form E, which is not complete in all respects

and does not conform to the instructions specified therein, shall be rejected:

Provided that before rejecting any such application, the applicant shall be given in writing an opportunity to remove within thirty days of the date of communication in this regard, the objections indicated by the Board:

Provided further that the Board may, on being satisfied that it is necessary to extend the period specified in the first proviso, extend such period by such further time as it thinks necessary in order to enable the applicant to remove the objections indicated by the Board.

**18. Furnishing information, clarification, and personal representation**

- (1) The Board may require the applicant, or the depository to which the applicant is to be admitted as a participant, to furnish such further information or clarification as may be considered necessary for the grant of a certificate of initial registration to the applicant.
- (2) The applicant or his authorised representative shall, if so required, appear before the Board for personal representation in connection with the grant of a certificate of initial registration.

**19. Consideration of application for grant of certificate of initial registration**

For the purpose of grant of certificate of initial registration, the Board shall take into account all matters which are relevant to or relating to the efficient and orderly functioning of a participant and in particular, whether the applicant complies with the following requirements, namely: -

- (a) the applicant belongs to one of the following categories, -
  - (i) a public financial institution as defined in section 4A of the Companies Act, 1956 (1 of 1956);
  - (ii) a bank included for the time being in the Second Schedule to the Reserve Bank of India Act, 1934 (2 of 1934);
  - (iii) a foreign bank operating in India with the approval of the Reserve Bank of India;
  - (iv) a state financial corporation established under the provisions of section 3 of the State Financial Corporations Act, 1951 (63 of 1951);

- (v) an institution engaged in providing financial services, promoted by any of the institutions mentioned in sub clause (i), (ii), (iii), (iv), jointly or severally;
- (vi) a custodian of securities who has been granted a certificate of registration by the Board under sub-section (1A) of section 12 of the Act;
- (vii) a clearing corporation or a clearing house of a stock exchange;
- (viii) a stock broker who has been granted a certificate of registration by the Board under sub-section (1) of section 12 of the Act:

Provided that the stock broker shall have a minimum networth of rupees 50 lakhs and the aggregate value of portfolio of securities of the beneficial owners held in dematerialised form in a depository through him, shall not exceed 100 times of the networth of the stock broker:

Provided further that if the stock broker seeks to act as a participant in more than one depository, he shall comply with the criteria specified in the first proviso separately for each such depository;

Provided further that where the stock broker has a minimum net worth of rupees ten crore, the limits on the aggregate value of the portfolio of securities of the beneficial owners held in dematerialized form in a depository through him shall not be applicable;

- (ix) a non-banking finance company, having a net worth of not less than rupees fifty lakhs :

Provided that such company shall act as a participant only on behalf of itself and not on behalf of any other person:

Provided further that a non-banking finance company may act as a participant on behalf of any other person, if it has a networth of Rs. 50 crore in addition to the networth specified by any other authority; or

- (x) a registrar to an issue or a share transfer agent who has a minimum networth of rupees ten crores and who has been granted a certificate of registration by the Board under sub-section (1) of section 12 of the Act.
- (b) the applicant is eligible to be admitted as a participant of the depository through which it has made the application to the Board;

- (c) the applicant has adequate infrastructure, systems, safeguards and trained staff to carry on activity as a participant;
- (cc) the applicant is a fit and proper person; and
- (d) the grant of certificate of initial registration is in the interests of investors in the securities market.

**20. Grant of certificate of initial registration**

- (1) After considering the application under regulation 16, with reference to the matters specified in regulation 19, if the Board is satisfied that the applicant is eligible for grant of certificate of initial registration, grant a certificate in Form F.
- (2) The grant of certificate of initial registration in Form F shall be subject to the following, namely:-
  - (a) the participant shall pay the registration fee specified in Part A of the Second Schedule in the manner specified in Part B thereof, within fifteen days of the receipt of intimation from the Board;
  - (b) the participant shall comply with the provisions of the Act, Depositories Act, the bye-laws, agreements and these regulations;
  - (c) the depository through which an application for certificate of registration has been forwarded holds a certificate of commencement of business under regulation 14;
  - (ca) where the participant proposes change in controls it shall obtain prior approval of the board for continuing to act as such after the change.
  - (d) if any information previously submitted by the participant to the Board is found to be false or misleading in any material particular, or if there is any change in such information, the participant shall forthwith inform the Board in writing;
  - (e) the participant shall redress the grievances of beneficial owners within thirty days of the date of the receipt of the complaint and keep the depository informed about the number and the nature of redressals; and
  - (f) the participant shall pay annual fees specified in Part A of the Second Schedule in the manner specified in Part B thereof.
- (3) The certificate of initial registration granted under sub-regulation (1) shall be valid for a period of five years from the date of its issue to the applicant.

**20A. Grant of certificate of permanent registration.**

- (1) A participant who has been granted a certificate of initial registration may, three months before the expiry of the period of certificate of initial registration, make an application for grant of a certificate of permanent registration in Form E, through the depository in which it is a participant.
- (2) The participant who has already been granted a certificate of registration or has obtained renewal of certificate of registration, prior to the commencement of the Securities and Exchange Board of India (Depositories and Participants) (Amendment) Regulations, 2011, may, three months before the expiry of validity of certificate of registration or before, make an application for grant of a certificate of permanent registration in Form E, through the depository in which it is a participant.
- (3) The application under sub-regulation (1) or sub-regulation (2) shall be accompanied by the application fees as specified in Part A of the Second Schedule and be paid in the manner specified in Part B thereof.
- (4) The application for grant of a certificate of permanent registration shall be accompanied by details of the changes that have taken place in the information that was submitted to the Board while seeking initial registration or renewal, as the case may be, and a declaration stating that no changes other than those as mentioned in such details have taken place.
- (5) The application for permanent registration made under subregulation (1) or (2) shall be dealt with in the same manner as if it were a fresh application for grant of a certificate of initial registration.
- (6) The Board, on being satisfied that the applicant is eligible, shall grant a certificate of permanent registration in Form F and shall send an intimation to the applicant.
- (7) On the grant of a certificate of permanent registration the participant shall be liable to pay registration fee as specified in the Second Schedule of these regulations, within a period of fifteen days of receipt of intimation from the Board.
- (8) The participant shall pay annual fee as specified in the Second Schedule of these regulations.

**20AA. Participants to abide by code of conduct.**

The participant holding a certificate of initial or permanent

registration shall, at all times, abide by the Code of Conduct as specified in Third Schedule.

**21. to 23. [omitted]**

**24. Procedure where certificate of initial registration is not granted**

- (1) Where an application for the grant of certificate of initial registration under regulation 16 or permanent registration under Regulation 20A does not satisfy the requirements specified in regulation 19, the Board shall reject the application after giving the applicant an opportunity of being heard;
- (2) The decision of the Board to reject the application shall be communicated to the applicant in writing within thirty days of such decision, stating therein the grounds on which the application has been rejected.

**25. Effect of refusal to grant Certificate of Permanent Registration**

Any participant whose application for a certificate of permanent registration has been rejected by the Board under regulation 20A, shall from the date of expiry of the certificate of registration sought to be renewed, cease to carry on any activity as a participant:

Provided that the Board may, in the interest of the investors in the securities market permit the participant to carry on activities undertaken prior to the receipt of the intimation of refusal subject to such condition as the Board may specify.

CHAPTER V

**Rights and Obligations of Depositories, Participants issuers, Manner of Surrender of Certificate of Security and Creation of Pledge or Hypothecation**

**26. Rights and obligations of depositories, etc.**

The depositories, participants, issuers, and issuers' agents, in addition to the rights and obligations laid down in the Depositories Act and the bye-laws shall have the rights and obligations arising from the agreements entered into by them.

**27. Depository to declare specific securities eligible**

Every depository shall, in its bye-laws, state the specific securities which are eligible for being held in dematerialised form in the depository.



**28. Securities eligible for dematerialisation**

The following securities shall be eligible for being held in dematerialised form in a depository:-

- (a) shares, scrips, stocks, bonds, debentures, debenture stock, indian depository receipts or other marketable securities of a like nature in or of any incorporated company or other body corporate;
- (b) units of mutual funds, rights under collective investment schemes and venture capital funds, commercial paper, certificates of deposit, securitised debt, money market instruments Government Securities and unlisted securities shall also be similarly eligible for being held in dematerialised form in a depository.
- (c) any other security as may be specified by the Board from time to time, by way of a notification in the Official Gazette and subject to such conditions as it may deem fit to impose.

**29. Agreement between depository and issuer**

- (1) Either on the issuer or on the investor exercising an option to hold his securities with a depository in a dematerialised form, the issuer shall enter into an agreement with the depository to enable the investor to dematerialise the securities :

Provided that no agreement shall be required to be entered into where the depository itself is an issuer of securities :

Provided further that no such agreement shall be required to be entered into where the State or the Central Government is the issuer of Government securities.

- (2) Where the issuer has appointed a Registrar to the Issue or Share Transfer Agent, who has been granted certificate of registration by the Board under sub-section (1) of section 12 of the Act, the depository shall enter into a tripartite agreement with the issuer and the Registrar to the Issue or Share Transfer Agent, as the case may be, in respect of the securities to be declared by the depository as eligible to be held in dematerialised form.

**30. Systems and procedures**

Every depository shall have systems and procedures which will enable it to coordinate with the issuer or its agent, and the participants, to reconcile the records of ownership of securities with the issuer or its agent, as the case may be, and with participants, on a daily basis.

**31. Connectivity**

Every depository shall maintain continuous electronic means of communication with all its participants, issuers or issuers' agents, as the case may be, clearing houses and clearing corporations of the stock exchanges and with other depositories.

**32. Mechanism for investor protection**

The depository shall satisfy the Board that it has a mechanism in place to ensure that the interests of the persons buying and selling securities held in the depository are adequately protected.

**33. Withdrawal by participant**

Every depository shall allow any participant to withdraw or transfer its account, if the request for such withdrawal or transfer is in accordance with conditions stipulated therefor in the bye-laws of the depository.

**34. Internal monitoring, review and evaluation of systems and controls**

Every depository shall have adequate mechanisms for the purpose of reviewing monitoring and evaluating the depository's control systems, procedures and safeguards.

**35. External monitoring, review and evaluation of systems and controls**

Every depository shall cause an inspection of its controls, systems procedures and safeguards to be carried out annually and forward a copy of the report to the Board.

**36. Insurance against risks**

Every depository shall take adequate measures including insurance to protect the interests of the beneficial owners against risks likely to be incurred on account of its activities as a depository.

**37. Manner of keeping records**

Where records are kept electronically by the depository, it shall ensure that the integrity of the automatic data processing systems is maintained at all times and take all precautions necessary to ensure that the records are not lost, destroyed or tampered with and in the event of loss or destruction, ensure that sufficient back up of records is available at all times at a different place.

**38. Records to be maintained**

(1) Every depository shall maintain the following records and documents, namely:-

- (a) records of securities dematerialised and rematerialised;

- (b) the names of the transferor, transferee, and the dates of transfer of securities;
  - (c) a register and an index of beneficial owners
  - (cc) details of the holdings of the securities of the beneficial owners as at the end of each day.
  - (d) records of instructions received from and sent to participants, issuers, issuers' agents and beneficial owners;
  - (e) records of approval, notice, entry and cancellation of pledge or hypothecation, as the case may be;
  - (f) details of participants;
  - (g) details of securities declared to be eligible for dematerialisation in the depository; and
  - (h) such other records as may be specified by the Board for carrying on the activities as a depository.
- (2) Every depository shall intimate the Board the place where the records and documents are maintained.
- (3) Subject to the provisions of any other law, the depository shall preserve records and documents for a minimum period of five years.

**39. Co-operation with other entities**

Every depository shall extend all such co-operation to the beneficial owners, issuers, issuers' agents, custodians of securities, other depositories and clearing organizations as is necessary for the effective, prompt and accurate clearance and settlement of securities transactions and conduct of business.

**40. Prohibition of Assignment**

No depository shall assign or delegate to any other person its functions as a depository, without the prior approval of the Board.

**41. Agreement by participant**

Every participant shall enter into an agreement with a beneficial owner before acting as a participant on his behalf, in a manner specified by the depository in its bye-laws.

**42. Separate Accounts**

- (1) Separate accounts shall be opened by every participant in the name of each of the beneficial owners and the securities of each beneficial owner shall be segregated, and shall not be

mixed up with the securities of other beneficial owners or with the participant's own securities.

- (2) A participant shall register the transfer of securities to or from a beneficial owner's account only on receipt of instructions from the beneficial owner and thereafter confirm the same to the beneficial owner in a manner as specified by the depository in its bye-laws.
- (3) Every entry in the beneficial owner's account shall be supported by electronic instructions or any other mode of instruction received from the beneficial owner in accordance with the agreement with the beneficial owner.

**43. Statement of accounts**

Every participant shall provide statements of account to the beneficial owner in such form and in such manner and at such time as provided in the agreement with the beneficial owner.

**44. Transfer or withdrawal by beneficial owner**

Every participant shall allow a beneficial owner to withdraw or transfer from his account in such manner as specified in the agreement with the beneficial owner.

**45. Connectivity**

Every participant shall maintain continuous electronic means of communication with each depository in which it is a participant.

**46. Monitoring, reviewing and evaluating internal systems and controls**

Every participant shall have adequate mechanism for the purposes of reviewing, monitoring and evaluating the participant's internal accounting controls and systems.

**47. Reconciliation**

Every participant shall reconcile his records with every depository in which it is a participant, on a daily basis.

**48. Returns**

Every participant shall submit periodic returns to the Board and to every depository in which it is a participant in the format specified by the Board or the bye-laws of the depository, as the case may be.

**49. Record of services**

- (1) Every participant shall maintain the following records and documents, namely:-
  - (a) records of all the transactions entered into with a depository and with a beneficial owner;

- (b) details of securities dematerialised, rematerialised on behalf of beneficial owners with whom it has entered into an agreement;
  - (c) records of instructions received from beneficial owners and statements of account provided to beneficial owners; and
  - (d) records of approval, notice, entry and cancellation of pledge or hypothecation, as the case may be.
- (2) Every participant shall make available for the inspection of the depository in which it is a participant all records referred to in sub-regulation (1).
- (3) Every participant shall allow persons authorised by the depository in which it is a participant to enter its premises during normal office hours and inspect its records.
- (4) Every participant shall intimate the Board the place where the records and documents are maintained.
- (5) Subject to the provisions of any other law, the participant shall preserve records and documents for a minimum period of five years.

**50. Manner of keeping records**

Where records are kept electronically by the participants, it shall ensure that the integrity of the data processing systems is maintained at all times and take all precautions necessary to ensure that the records are not lost, destroyed or tampered with and in the event of loss or destruction, ensure that sufficient back up of records is available at all times at a different place.

**51. Records to be maintained depository-wise**

If a participant enters into an agreement with more than one depository, it shall maintain the records specified in regulation 49 separately in respect of each depository.

**52. Prohibition of assignment**

No participant shall assign or delegate its functions as participant to any other person, without the prior approval of the depository.

**53. Agreement by issuer**

Every issuer whose securities have been declared as eligible to be held in dematerialised form in a depository shall enter into an agreement with the depository in accordance with the provisions of regulation 29 :

Provided that no agreement shall be required to be entered into in case:-

- (i) the depository is the issuer of securities; or
- (ii) the State or the Central Government is the issuer of Government securities.

**53A. Manner of handling share registry work**

All matters relating to transfer of securities, maintenance of records of holders of securities, handling of physical securities and establishing connectivity with the depositories shall be handled and maintained at a single point i.e. either in-house by the issuer or by a Share Transfer Agent registered with the Board.

**53B. Redressal of investor grievances**

Every issuer or its agent or any person who is registered as an intermediary under this Act, shall redress the grievances of beneficial owners within thirty days of the date of receipt of the complaint and keep the depository informed about the number and nature of grievances redressed by it and the number of grievances pending before it.

**54. Manner of surrender of certificate of security**

- (1) Any beneficial owner, who has entered into an agreement with a participant, shall inform the participant of the details of the certificate of security which is to be dematerialised, and shall surrender such certificate to the participant:

Provided that where a beneficial owner has appointed a custodian of securities, then he may surrender the certificates of security to the participant through his custodian of securities.

- (2) The participant shall, on receipt of information under sub-regulation (1), forward such details of the certificate of security to the depository and shall confirm to the depository that an agreement has been entered into between the participant and the beneficial owner.
- (3) The participant shall maintain records indicating the names of beneficial owners of the securities surrendered, the number of securities and other details of the certificate of security received.
- (4) The participant shall, within seven days of the receipt of certificate of security referred to in sub-regulation (1) furnish to the issuer details specified in sub-regulation (2) along with the certificate of security.

- (5) Within 15 days of receipt of the certificate of securing from the participant the issuer shall confirm to the depository that securities comprised in the said certificate have been listed on the stock exchange or exchanges where the earlier issued securities are listed and shall also after due verification immediately mutilate and cancel the certificate of security and substitute in its record the name of the depository as the registered owner and shall send a certificate to this effect to the depository and to every stock exchange where the security is listed :

Provided that in case of unlisted companies the conditions of listing on all the stock exchanges where earlier issued shares are listed, shall not be applicable.

- (6) Immediately upon receipt of information from the issuer under sub-regulation (5), the depository shall enter in its records the name of the person who has surrendered the certificate of security as the beneficial owner, as well as the name of the participant from whom it has received intimation under sub-regulation (2), and shall send an intimation of the same to the participant.
- (7) The issuer shall maintain a record of certificates of securities which have been dematerialised.

#### **55. Reconciliation**

The issuer or its agent shall reconcile the records of dematerialised securities with all the securities issued by the issuer, on a daily basis :

Provided that where the State or the Central Government is the issuer of Government securities, the depository shall, on a daily basis, reconcile the records of the dematerialised securities.

#### **55A. Audit\***

- (1) Every issuer shall submit audit report on a quarterly basis, starting from September 30, 2003, to the concerned stock exchanges audited by a qualified Chartered Accountant or a practicing Company Secretary, for the purposes of reconciliation of the total issued capital, listed capital and capital held by depositories in dematerialized form, the details of changes in share capital during the quarter and the in-principle approval obtained by the issuer from all the stock exchanges where it is listed in respect of such further issued capital.

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\* SEBI vide circular dated September 06, 2010 has clarified the nomenclature of the Audit to be 'Reconciliation of Share Capital Audit'

- (2) The audit report under sub-regulation (1) shall also give the updated status of the register of members of the issuer and confirm that securities have been dematerialized as per requests within 21 days from the date of receipt of requests by the issuer and where the dematerialization has not been effected within the said stipulated period, the report shall disclose the reasons for such delay.
- (3) The issuer shall immediately bring to the notice of the depositories and the stock exchanges, any difference observed in its issued, listed, and the capital held by depositories in dematerialised form.

**56. Connectivity**

Every issuer or its agent shall establish continuous electronic means of communication with the depository with which it has entered into an agreement.

**57. Information**

Every issuer whose securities have been declared as eligible for dematerialisation in a depository shall give information to the depository about book closures, record dates, dates for the payment of interest or dividend, dates for annual general meetings and other meetings, dates for redemption of debentures, dates for conversion of debentures and warrants, call money dates and such other information at the time and in the manner as may be specified by the depository in its bye-laws or agreement :

Provided that no such information would be required to be given to the depository where the State or the Central Government is the issuer of Government securities.

**58. Manner of creating pledge or hypothecation**

- (1) If a beneficial owner intends to create a pledge on a security owned by him he shall make an application to the depository through the participant who has his account in respect of such securities.
- (2) The participant after satisfaction that the securities are available for pledge shall make a note in its records of the notice of pledge and forward the application to the depository.
- (3) The depository after confirmation from the pledgee that the securities are available for pledge with the pledgor shall within fifteen days of the receipt of the application create and record the pledge and send an intimation of the same to the participants of the pledgor and the pledgees.



- (4) On receipt of the intimation under sub-regulation (3) the participants of both the pledgor and the pledgee shall inform the pledgor and the pledgee respectively of the entry of creation of the pledge.
- (5) If the depository does not create the pledge, it shall send along with the reasons an intimation to the participants of the pledgor and the pledgee.
- (6) The entry of pledge made under sub-regulation (3) may be cancelled by the depository if pledgor of the pledgee makes an application to the depository through its participant:  
Provided that no entry of pledge shall be cancelled by the depository without prior concurrence of the pledgee.
- (7) The depository on the cancellation of the entry of pledge shall inform the participant of the pledgor.
- (8) Subject to the provisions of the pledge document, the pledgee may invoke the pledge and on such invocation, the depository shall register the pledgee as beneficial owner of such securities and amend its records accordingly.
- (9) After amending its records under sub-regulation (8) the depository shall immediately inform the participants of the pledgor and pledgee of the change who in turn shall make the necessary changes in their records and inform the pledgor and pledgee respectively.
- (10) (a) If a beneficial owner intends to create a hypothecation on a security owned by him he may do so in accordance with the provisions of sub-regulations (1) to (9).  
(b) The provisions of sub-regulations (1) to (9) shall *mutatis mutandis* apply in such cases of hypothecation :  
Provided that the depository before registering the hypothecatee as a beneficial owner shall obtain the prior concurrence of the hypothecator.
- (11) No transfer of security in respect of which a notice or entry of pledge or hypothecation is in force shall be effected by a participant without the concurrence of the pledgee or the hypothecatee as the case may be.

**58A. Investment advice**

- (1) A depository or a participant or any of their employees shall not render, directly or indirectly, any investment advice about any security in the publicly accessible media, whether real-

time or non real-time, unless a disclosure of his interest including long or short position in the said security has been made, while rendering such advice.

- (2) In case an employee of the depository or the participant is rendering such advice, he shall also disclose the interest of his dependent family members and the employer including their long or short position in the said security, while rendering such advice.

**58B. Appointment of compliance officer**

- (1) A depository and a participant shall appoint a compliance officer who shall be responsible for monitoring the compliance of the Act, rules and regulations, notifications, guidelines, instructions, etc., issued by the Board or the Central Government and for redressal of investors' grievances.
- (2) The compliance officer shall immediately and independently report to the Board any non-compliance observed by him.

CHAPTER VI

**Inspection**

**59. Board's right to inspect**

The Board may appoint one or more persons as inspecting officer to undertake inspection of the books of accounts, records, documents and infrastructure, systems and procedures, or to investigate the affairs of a depository, a participant, a beneficial owner, an issuer or its agent for any of the following purposes, namely:-

- (a) to ensure that the books of account are being maintained by the depository, participant, issuer or its agent in the manner specified in these regulations;
- (b) to look into the complaints received from the depositories, participants, issuers, issuers' agents, beneficial owners or any other persons;
- (c) to ascertain whether the provisions of the Act, the Depositories Act, the bye-laws, agreements and these regulations are being complied with by the depository, participant, beneficial owner, issuer or its agent;
- (d) to ascertain whether the systems, procedures and safeguards being followed by a depository, participant, beneficial owner, issuer or its agent are adequate;
- (e) to *suo motu* ensure that the affairs of a depository, participant, beneficial owner, issuer or its agent, are being conducted in a

manner which are in the interest of the investors or the securities market.

**60. Notice before inspection and investigation**

- (1) Before ordering an inspection or investigation under regulation 59, the Board shall give not less than 10 days notice to the depository, participant, beneficial owner, issuer or its agent, as the case may be.
- (2) Notwithstanding anything contained in sub-regulation (1), where the Board is satisfied that in the interest of the investors no such notice should be given, it may, by an order in writing direct that such inspection be taken up without such notice.
- (3) During the course of an inspection or investigation, the depository, a participant, a beneficial owner, an issuer or its agent against whom the inspection or investigation is being carried out shall be bound to discharge his obligation as provided in regulation 61.

**61. Obligations on inspection by the Board**

- (1) It shall be the duty of the depository, a participant, a beneficial owner, an issuer or its agent whose affairs are being inspected or investigated, and of every director, officer and employee thereof, to produce to the inspecting officer such books, securities, accounts, records and other documents in its custody or control and furnish him with such statements and information relating to his activities as a depository, a participant, a beneficial owner, an issuer or its agent, as the inspecting officer may require, within such reasonable period as the inspecting officer may specify.
- (2) The depository, a participant, a beneficial owner, an issuer or its agent shall allow the inspecting officer to have reasonable access to the premises occupied by him or by any other person on his behalf and also extend reasonable facility for examining any books, records, documents and computer data in the possession of the depository, a participant, a beneficial owner, an issuer or its agent or such other person and also provide copies of documents or other materials which, in the opinion of the inspecting officer are relevant for the purposes of the inspection.
- (3) The inspecting officer, in the course of inspection or investigation, shall be entitled to examine or to record the statements of any director, officer or employee of the depository, a participant, a beneficial owner, an issuer or its agent.

- (4) It shall be the duty of every director, officer or employee of the depository, a participant, a beneficial owner, an issuer or its agent to give to the inspecting officer all assistance in connection with the inspection, which the inspecting officer may reasonably require.

**62. Submission of Report to the Board**

The inspecting officer shall, as soon as possible, on completion of the inspection or investigation as the case may be, submit a report to the Board :

Provided that if directed to do so by the Board, he may submit interim reports.

**63. Action on Inspection or Investigation Report**

The Board or the Chairman shall after consideration of the inspection or investigation report take such action as the Board or the Chairman may deem fit and appropriate including action under chapter V of the Securities and Exchange Board of India (Intermediaries) Regulation, 2008.

**63A. Appointment of Auditor**

The Board shall have the power to appoint an auditor to inspect or investigate, into the books of accounts, records, documents, infrastructures, systems and procedures or affairs of a depository, a participant, a beneficial owner, an issuer or its agent.

Provided that the auditors so appointed shall have the same powers of the inspecting or investigating officer as stated in regulations 59 and 60, and the obligation of the depository, participant, beneficial owner, issuer or its agent and their respective directors, officers and employees, as the case may be, as stated in regulation 61, shall be applicable to the inspection or investigation under this regulation.

**63B. Board to recover the expenses**

The Board shall be entitled to recover from the depository, participant, beneficial owner, an issuer or its agent, as the case may be, such expenses including fees paid to the auditors as may be incurred by it for the purposes of inspecting or investigating the books of accounts, records, documents, infrastructures, system and procedures of the depository, participant, beneficial owner, an issuer or its agent, as the case may be.

**63C. Application Chapter**

Nothing contained in this Chapter shall be applicable to the State or the Central Government where it is the issuer of Government securities.

## CHAPTER VII

**Procedure for Action in Case of Default****64. Liability for action in case of default**

A depository or a participant who-

- (a) contravenes any of the provisions of the Act, the Depositories Act, the bye-laws, agreements and these regulations;
- (b) fails to furnish any information relating to its activity as a depository or participant as required under these regulations;
- (c) does not furnish the information called for by the Board under clause (a) of sub-section(1) of section 18 of the Depositories Act or furnishes information which is false or misleading in any material particular;
- (d) does not co operate in any inspection or investigation or enquiry conducted by the Board ;
- (e) fails to comply with any direction of the Board issued under section 18 of the Depositories Act;
- (f) fails to pay the annual fee referred to in regulation 8,

shall be dealt within the manner provided under the Securities and Exchange Board of India ( Intermediaries ) Regulations, 2008.

**65. to 69. [omitted]**

**FIRST SCHEDULE****FORMS****FORM A**

Securities and Exchange Board of India  
(Depositories and Participants) Regulations, 1996

*(see regulation 3)*

**APPLICATION FOR GRANT OF CERTIFICATE  
OF REGISTRATION AS DEPOSITORY**

Securities and Exchange Board of India

**Instructions**

- (i) This form is meant for use by each person acting as the sponsor of a depository.
- (ii) The applicant should complete this form, and submit it, along with all supporting documents to the Board at its head office at Mumbai.

- (iii) This application form should be filled in accordance with the regulations.
- (iv) Application for grant of certificate of registration as depository, will be considered provided it is complete in all respects.
- (v) All answers must be typed.
- (vi) Information which needs to be supplied in more detail may be given on separate sheets which should be attached to the application form.
- (vii) The application must be signed and all signatures must be original.
- (viii) The application must be accompanied by an application fee as specified the Second Schedule to these regulations and by the bye-laws.
- (ix) Every page of the form and every additional sheet *must be initialled* by the authorised signatory of the applicant.
- (x) All copies of documents should be *attested* as true by an authorised notary.

Items 1-6 pertain to an applicant acting as sponsor

1. Name, address of the registered office, address for correspondence, telephone number(s), fax number(s), telex number(s) and the name of the contact person of the sponsor.
2. Please indicate the name of the depository which is to be sponsored by the applicant.
3. Please indicate the names of other depositories, if any, which have been sponsored by the applicant, or in which the applicant is acting as participant.
4. Please indicate the category to which the sponsor belongs as per regulation 6.
5. Please provide the following details of each person acting as sponsor:
  - (a) Date of incorporation or establishment, and the statute, if any, under which established (enclose certificate of incorporation, memorandum and articles of association or statutory provisions, if any).
  - (b) Objects of the applicant.
  - (c) Details of the nature of activities carried on by the applicant.
  - (d) Details of affiliates and subsidiaries, and activities carried on by them.

- (e) Details of registration with the Securities and Exchange Board of India, the Reserve Bank of India or with any foreign regulatory authority of the applicant, its affiliates and its subsidiaries (enclose documents supporting such registration).
  - (f) Networth of the applicant (enclose a copy of the latest audited financial statements).
  - (g) Percentage and amount of the paid up capital of the proposed depository which the applicant is to hold.
6. Declaration statement (to be given as below) by each person acting as sponsor :

We hereby agree and declare that the information supplied in the application, including the attachment sheets, is complete and true.

And we further agree that, we will notify Securities and Exchange Board of India immediately any change in the information provided in the application.

We further agree that we shall comply with, and be bound by the Securities and Exchange Board of India Act, 1992, and Securities and Exchange Board of India (Depositories and Participants) Regulations, 1996, and such other guidelines/instructions which may be announced by the Securities and Exchange Board of India from time to time.

We further agree that as a condition of registration, we shall abide by such operational instructions/ directives as may be issued by the Securities and Exchange Board of India from time to time.

For and on behalf of .....

(Name of the applicant)

Authorised signatory .....  
(Name) (Signature)

Date :

Place :

Items 7-14 pertain to the depository, and should be filled in accordingly

- 7. Name, address of the registered office, address for correspondence, telephone number(s), fax number(s), telex number(s) and the name of the contact person of the applicant.
- 8. Date of incorporation of the depository, (enclose certificate of incorporation and memorandum and articles of association)
  - (a) Objects (main and ancillary) of the depository.

- (b) Authorised, issued subscribed and paid up capital of the depository.
  - (c) Proposed networth of the depository.
  - (d) Details of proposed shareholding of each person acting as sponsor.
9. The following details may be given for each director of the depository, and for its principal officer.
- (a) Name, age, nationality.
  - (b) Details of educational and other qualifications.
  - (c) Details of experience.
  - (d) Details of other directorships held.
  - (e) Details of any litigation connected with the securities market which has an adverse bearing on the business of the depository, involving the director or principal officer; and details of any conviction of the director or principle officer for a crime involving moral turpitude or of any economic office for which the director or principle officer has been found guilty.
10. Please indicate the details of staff and organisation structure that is proposed to be set up prior to commencement of business.
11. Details of infrastructure such as premises and automatic data processing, storage and back up systems and procedures, communication systems that are proposed to be set up prior to commencement of business.
12. Internal evaluation and monitoring systems that are proposed to be set up prior to the commencement of business.
13. Arrangements for indemnification of beneficial owners that are proposed to be put in place, including details of insurance cover proposed to be taken prior to the commencement of business.
14. Declaration statement (to be given as below) :
- We hereby agree and declare that the information supplied in the application, including the attachment sheets, is complete and true.
- And we further agree that, we will notify Securities and Exchange Board of India immediately any change in the information provided in the application.



We further agree that we shall comply with, and be bound by the Securities and Exchange Board of India Act, 1992, and Securities and Exchange Board of India (Depositories and Participants) Regulations, 1996, and such other guidelines/instructions which may be announced by the Securities and Exchange Board of India from time to time.

We further agree that as a condition of registration, we shall abide by such operational instructions/ directives as may be issued by the Securities and Exchange Board of India from time to time.

For and on behalf of .....

(Name of the applicant)

Authorised signatory .....  
(Name) (Signature)

Date :

Place :

### FORM B

Securities and Exchange Board of India  
(Depositories and Participants) Regulations, 1996

*(see regulation 7)*

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### CERTIFICATE OF REGISTRATION AS DEPOSITORY

I. In exercise of the powers conferred by sub-section (1A) of section 12 of the Securities and Exchange Board of India Act, 1992, (15 of 1992) read with the regulations made thereunder and with the Depositories Act, 1996 (22 of 1996) the Board hereby grants a certificate of registration to \_\_\_\_\_ as a Depository subject to the conditions specified in the Act, the Depositories Act and the regulations made thereunder.

II. Registration Number for the Depository is IN/SD/ / /

Date :

Place : Mumbai

By order

Sd/-

For and on behalf of  
Securities and Exchange Board of India

**FORM C**

Securities and Exchange Board of India  
(Depositories and Participants) Regulations, 1996

*(see regulation 10)*

**APPLICATION FOR GRANT OF CERTIFICATE OF  
COMMENCEMENT OF BUSINESS AS DEPOSITORY**

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**Instructions**

- (i) This form is meant for use by a depository granted a certificate of registration by the Securities and Exchange Board of India.
- (ii) The applicant should complete this form, and submit it, along with all supporting documents to the Board at its head office at Mumbai.
- (iii) This application form should be filled in accordance with the regulations.
- (iv) Application for grant of certificate of commencement of business will be considered provided it is complete in all respects.
- (v) All answers must be typed.
- (vi) Information which needs to be supplied in more detail may be given on separate sheets which should be attached to the application form.
- (vii) The application must be signed and all signatures must be original.
- (viii) Every page of the form and every additional sheet *must be initialled* by the authorised signatory of the applicant.
- (ix) All copies of documents should be *attested* as true by an authorised notary.
  - 1. Name and registration number of the applicant.
  - 2. Date of grant of certificate of registration to the applicant.
  - 3. Please indicate whether bye-laws have been approved by SEBI.
  - 4. Please indicate the details of staff and organisation structure that has been set up.

5. Please indicate the background and experience of key personnel.
6. Internal evaluation and monitoring systems including details of background and experience of personnel involved that have been set up (enclose copies of risk management and operations manuals).
7. Please provide the following details of the automatic data processing and communications systems :
  - (a) details of hardware, software and communications systems, their capability, function and location;
  - (b) details of data storage and back up procedures and sites, their capability, function and location;
  - (c) details of disaster recovery systems and procedures.
8. Please indicate whether premises and automatic data processing and communications systems are owned, leased or rented (enclose copies of title, lease or rental agreements).
9. Please indicate arrangements that have been put in place in order to indemnify beneficial owners.
10. Please enclose copy of insurance cover that has been taken.
11. Please enclose a copy of the participation agreement to be entered into with different categories of participants.
12. Please enclose a copy of the agreement to be entered into with the issuer, or with the issuer and his registrar.
13. Please enclose a copy of the agreement to be entered into between the participant, as the depository's agent, and the beneficial owners.
14. Declaration statement (to be given as below) :

We hereby agree and declare that the information supplied in the application, including the attachment sheets, is complete and true.

And we further agree that, we will notify Securities and Exchange Board of India immediately any change in the information provided in the application.

We further agree that we shall comply with, and be bound by the Securities and Exchange Board of India Act, 1992, and Securities

and Exchange Board of India (Depositories and Participants) Regulations, 1996, and such other guidelines/instructions which may be announced by the Securities and Exchange Board of India from time to time.

We further agree that as a condition of registration, we shall abide by such operational instructions/ directives as may be issued by the Securities and Exchange Board of India from time to time.

For and on behalf of .....

(Name of the applicant)

Authorised signatory ..... ..

(Name)

(Signature)

Date :

Place :

#### **FORM D**

Securities and Exchange Board of India  
(Depositories and Participants) Regulations, 1996

*(see regulation 14)*

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#### **CERTIFICATE OF COMMENCEMENT OF BUSINESS AS DEPOSITORY**

In exercise of the powers conferred by section 3 of the Depositories Act, 1996 (22 of 1996) read with the regulations, the Board hereby grants a certificate of commencement of business to \_\_\_\_\_ as a depository subject to the conditions specified in the Act, the Depositories Act and the regulations made thereunder.

Date :

Place : Mumbai

By order

Sd/-

For and on behalf of  
Securities and Exchange Board of India

**FORM E**

Securities and Exchange Board of India  
(Depositories and Participants) Regulations, 1996

(see Regulation 16 / regulation 20A)

**APPLICATION FOR GRANT OF CERTIFICATE  
OF INITIAL / PERMANENT REGISTRATION AS PARTICIPANT**

Securities and Exchange Board of India, Mumbai

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**Instructions**

- (i) This form is meant for use by an applicant for grant of registration as participant.
- (ii) The form should be filled in by the applicant and submitted to the depository in which it is acting as participant, who shall forward it, along with all supporting documents to the Board at its head office at Mumbai.
- (iii) This application form should be filled in accordance with the regulations.
- (iv) Application for grant of certificate of initial or permanent registration, as the case may be, will be considered provided it is complete in all respects.
- (v) All answers must be typed.
- (vi) Information which needs to be supplied in more detail may be given on separate sheets which should be attached to the application form.
- (vii) The application must be signed and all signatures must be original.
- (viii) The application must be accompanied by an *application fee* as specified in the Second Schedule to these regulations.
- (ix) Every page of the form and every additional sheet must be initialed by the authorised signatory of the applicant.
- (x) All copies of documents should be attested as true by an authorised notary.
  - 1. Name, address of the registered office, address for correspondence, telephone number(s), fax number(s), telex number(s) of the applicant and the name of the contact person.
  - 2. Please indicate to which of the categories under sub-regulation (a) of regulation 19, the applicant belongs.

3.
  - (a) Date and place of incorporation or establishment and date of commencement of business (enclose certificate of incorporation, memorandum and articles of association or statutory provisions, if any).
  - (b) Details of the activities carried on by the applicant, in India or overseas.
  - (c) Details of affiliates and subsidiaries of the applicant operating in India, and activities carried on by them.
  - (d) Details of registration with the Securities and Exchange Board of India, the Reserve Bank of India or with any regulatory authority overseas of the applicant, and of its affiliates and subsidiaries operating in India.
  - (e) Date of commencement of business in India and overseas (please enclose copies of the Reserve Bank of India's permission, and if applicable copies of approvals from the Central Government to carry on activities mentioned above).
  - (f) Type and number of beneficial owners on whose behalf the applicant proposes to act as participant (Financial Institutions, Mutual Funds, Foreign Institutional Investors, Portfolio Managers, Non Banking Finance Companies, Stock Brokers, Corporates, Individuals, or for own account.)
4. Please give the name and SEBI registration number of the depository in which the applicant is to act as participant.
5. Please indicate the names and SEBI registration numbers of all other depositories in which the applicant is acting as participant and the applicant's SEBI registration number as participants in such depositories.
6. Please state whether the applicant, his partner, director or principal officer is involved in any litigation connected with the securities market which has an adverse bearing on the business of the applicant; or has at any time been convicted for any moral turpitude or at any time has been found guilty of any economic offence.
7. Please also state whether there has been any instance of violation or non-adherence to the securities laws, code of ethics/conduct, code of business rules, for which the applicant, or its parent or holding company or affiliate may have been subject to economic, or criminal, liability, or suspended from carrying out its operations, or the registration revoked temporarily.
8. Please indicate the net worth and paid up capital in Rs. Crore

as per the latest audited financial statements of the applicant (enclose copy).

9. Please indicate services that the applicant is already providing to beneficial owners on whose behalf the applicant proposes to act as participant, and services proposed to be provided to beneficial owners.
10. Please provide the following details regarding staff involved in activities as participant.
  - (i) organisation structure;
  - (ii) experience and background of key personnel.
11. Please provide the following details regarding safekeeping and security systems and procedures:
  - (i) risk control and operations manuals (enclose copies);
  - (ii) give details of independent internal control mechanisms for monitoring, evaluation and review of accounting, and reporting systems and procedures.
12. Please provide the following details regarding automatic data processing systems and record keeping:
  - (i) details of hardware, software and communications systems, their capability, function and location;
  - (ii) details of data storage and back up procedures and sites, their capability, function and location;
  - (iii) details of disaster recovery systems and procedures.
13. Details of insurance cover to be taken up.
14. Please indicate the applicant's shareholding for each depository in which it has such shareholding and whether any shareholding is proposed to be acquired in the depository through which this application is being made.
15. Please enclose a copy of an undertaking from the depository in which the applicant is to act as participant that :
  - (a) the applicant is eligible to act as participant in the depository through which this application is being submitted to SEBI, and meets with the eligibility criteria for participants specified in these regulations and in the depository's bye-laws;
  - (b) the applicant has adequate automatic data processing systems, adequate and competent staff, risk management systems, procedures and manuals, disaster recovery procedures, secure data storage and off site back up facilities, adequate communications links and insurance;

to enable the applicant to fulfil its obligations as participant to the satisfaction of the depository; and

- (c) the agreement to be entered into between the participant and beneficial owners has been submitted to the depository is in accordance with the depository's by-laws.

16. Declaration statement (to be given as below).

We hereby agree and declare that the information supplied in the application, including the attachment sheets, is complete and true.

AND we further agree that, we will notify Securities and Exchange Board of India immediately any change in the information provided in the application.

We further agree that we shall comply with, and be bound by the Securities and Exchange Board of India Act, 1992, and Securities and Exchange Board of India (Depositories and Participants) Regulations, 1996, and such other guidelines/ instructions which may be announced by the Securities and Exchange Board of India from time to time.

We further agree that as a condition of registration, we shall abide by such operational instructions/ directives as may be issued by the Securities and Exchange Board of India from time to time.

For and on behalf of .....

(Name of the applicant)

Authorised signatory ..... ..

(Name)

(Signature)

**FORM F**

*(see regulation 20/regulation 20A)*

Securities and Exchange Board of India  
(Depositories and Participants) Regulations, 1996

**CERTIFICATE OF INITIAL / PERMANENT  
REGISTRATION AS PARTICIPANT**

- (I) In exercise of the powers conferred by sub-section (1A) of section 12 of the Securities and Exchange Board of India Act, 1992, (15 of 1992) read with the regulations made thereunder and with the Depositories Act, 1996 (17 of 1996) the Board hereby grants a



certificate of registration to \_\_\_\_\_ as a participant subject to the conditions specified in the Act, the Depositories Act and the regulations made thereunder.

(II) Registration Number for the participant is IN/DP/ / /

(III) The Certificate of Registration shall be valid from \_\_\_\_\_ to \_\_\_\_\_ / for permanent, unless suspended or cancelled by the board.

Date :

Place : Mumbai

By order

Sd/-

For and on behalf of  
Securities and Exchange Board of India

## SECOND SCHEDULE

(see regulations 3, 7, 8, 16, 20, 20A)

Securities and Exchange Board of India  
(Depositories and Participants) Regulations, 1996

### PART A

#### APPLICATION FEES, REGISTRATION FEES AND ANNUAL FEES

	Rs.
Application fees payable by sponsor	50,000
Application fees payable by participant	5,000
Registration fees payable by depository	25,00,000
Registration fees payable by participant	1,00,000
Annual fees payable by depository	10,00,000
Annual fees payable by participant	1,000

## PART B

**MANNER OF PAYMENT OF APPLICATION  
REGISTRATION AND ANNUAL FEES**

<i>Fees to be paid by</i>	<i>Manner of payment</i>
Sponsor or depository	A demand draft or bankers cheque payable to the "Securities and Exchange Board of India" at Mumbai.
Participant	Fees to be paid to the depository in which the payer is a Participant. The Depository shall forward the fees collected from participants to the Board, with a demand draft or bankers cheque payable to the "Securities and Exchange Board of India" at Mumbai.

**THIRD SCHEDULE**

*Securities and Exchange Board of India  
(Depositories and Participants) Regulations, 1996  
(See Regulation 20AA)*

**CODE OF CONDUCT FOR PARTICIPANTS**

1. A participant shall make all efforts to protect the interests of investors.
2. A participant shall always endeavour to—
  - (a) render the best possible advice to the clients having regard to the clients needs and the environments and his own professional skills;
  - (b) ensure that all professional dealings are effected in a prompt, effective and efficient manner;
  - (c) inquiries from investors are adequately dealt with;
  - (d) grievances of investors are redressed without any delay.
3. A participant shall maintain high standards of integrity in all its dealings with its clients and other intermediaries, in the conduct of its business.
4. A participant shall be prompt and diligent in opening of a beneficial owner account, dispatch of the dematerialisation request form,

rematerialisation request form and execution of debit instruction slip and in all the other activities undertaken by him on behalf of the beneficial owners.

5. A participant shall endeavour to resolve all the complaints against it or in respect of the activities carried out by it as quickly as possible, and not later than one month of receipt.
6. A participant shall not increase charges/fees for the services rendered without proper advance notice to the beneficial owners.
7. A participant shall not indulge in any unfair competition, which is likely to harm the interests of other participants or investors or is likely to place such other participants in a disadvantageous position while competing for or executing any assignment.
8. A participant shall not make any exaggerated statement whether oral or written to the clients either about its qualifications or capability to render certain services or about its achievements in regard to services rendered to other clients.
9. A participant shall not divulge to other clients, press or any other person any information about its clients which has come to its knowledge except with the approval/authorisation of the clients or when it is required to disclose the information under the requirements of any Act, Rules or Regulations.
10. A participant shall co-operate with the Board as and when required.
11. A participant shall maintain the required level of knowledge and competency and abide by the provisions of the Act, Rules, Regulations and circulars and directions issued by the Board.  

The participant shall also comply with the award of the Ombudsman passed under the Securities and Exchange Board of India (Ombudsman) Regulations, 2003.
12. A participant shall not make any untrue statement or suppress any material fact in any documents, reports, papers or information furnished to the Board.
13. A participant shall not neglect or fail or refuse to submit to the Board or other agencies with which it is registered, such books, documents, correspondence, and papers or any part thereof as may be demanded/requested from time to time.
14. A participant shall ensure that the Board is promptly informed about any action, legal proceedings, etc., initiated against it in respect of material breach or non-compliance by it, of any law, Rules, regulations, directions of the Board or of any other regulatory body.

15. A participant shall maintain proper inward system for all types of mail received in all forms.
  16. A participant shall follow the maker—Checker concept in all of its activities to ensure the accuracy of the data and as a mechanism to check unauthorised transaction.
  17. A participant shall take adequate and necessary steps to ensure that continuity in data and record keeping is maintained and that the data or records are not lost or destroyed. It shall also ensure that for electronic records and data, up-to-date back up is always available with it.
  18. A participant shall provide adequate freedom and powers to its compliance officer for the effective discharge of his duties.
  19. A participant shall ensure that it has satisfactory internal control procedures in place as well as adequate financial and operational capabilities which can be reasonably expected to take care of any losses arising due to theft, fraud and other dishonest acts, professional misconduct or omissions.
  20. A participant shall be responsible for the acts or omissions of its employees and agents in respect of the conduct of its business.
  21. A participant shall ensure that the senior management, particularly decision makers have access to all relevant information about the business on a timely basis.
  22. A participant shall ensure that good corporate policies and corporate governance are in place.
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**RELEVANT BYE-LAWS OF NSDL \*****6.3 Rights and Obligations of Participants**

- 6.3.1 No Participant shall conduct any business as a Participant unless it enters into an agreement with Depository as per Annexure A of these Bye Laws.
- 6.3.2 A Participant while conducting any business as a Participant with a Client shall act as an agent of the Depository (Principal), and shall be liable to the Client for all the acts and deeds performed by the Participant. Subject to the provisions of Sec. 16 of the Act, the Depository shall not be liable to any person other than a Participant or a Client who may have any claim or claims in relation to any matters concerning the Depository operations.
- 6.3.3 The Participant shall not give a debit or credit to the account of a Client without a due authorisation from Client.
- 6.3.4 Participant shall not commingle its own securities with the securities of its Client and shall maintain each Client's account separately.
- 6.3.5 The Depository shall obtain, on a daily basis, the Client details from all Participants. The details shall be obtained in respect of the changes in the accounts of the Clients from the processing undertaken at the end of the previous working day. The Client details shall include the Client name, address and also the security wise details of the balance of the Client.
- 6.3.6 The Participants shall submit the following returns to the Depository :-
- (i) net worth certificate computed in a manner laid down in the Business Rules duly certified by a Chartered Accountant on the annual audited accounts of the Participant;
  - (ii) in case the Participant is a clearing member of the clearing corporation of any exchange, the details regarding any suspension/termination or defaults or any disputes in relation to its dealings with such clearing corporation within two working days of such an event;
  - (iii) number of complaints received from Clients, their nature, status and manner of redressal once every month;

- (iv) number of transfers effected for off-market settlement of trades once every month.
- 6.3.7 It shall be the responsibility of each Participant to promptly check and reconcile with its own records the details of such advices, statements and reports and to promptly notify the Depository of any error or omission contained in such advices, statements and reports within the time specified by the Depository.
- 6.3.8 Any advice, statement or report provided by the Depository shall in the absence of manifest error, be conclusive as to its subject matter. Except as otherwise agreed by the Depository, the failure of a Participant to inform the Depository of any error or omission in any advice, statement or report within the time frame stipulated by the Depository shall constitute a waiver in favour of the Depository by such Participant of any right to require rectification.
- 6.3.9 The Depository may if it is satisfied that it is in the interest of the Clients entertain a late request by a Participant to rectify an error or omission as aforesaid.
- 6.3.10 Every Participant shall reconcile his records with those of the Depository on a daily basis.
- 6.3.11 The Executive Committee may at any time require a Participant to provide on demand, collateral or additional collateral in such form, extent and manner as is determined by the Executive Committee to be appropriate with reference to, inter alia, the level of unreconciled balance in case of transfer of its account to other Depository or excess credit balance of securities due to any fraud, error or omission on the part of its officers, agents and employees. The collateral shall be in addition to and independent of any security which the Depository may at any time hold for the obligations and liabilities of such Participant.
- 6.3.12 Without prejudice to the above, the Depository may, for the purposes of deciding whether or not to require a Participant to provide collateral, specify exposure limits on a Participant.
- 6.3.13 A Participant shall not create or permit the creation of any mortgage, charge or other encumbrance over all or any of the assets provided as collateral, security or such similar purpose to the Depository.
- 6.3.14 The Depository may apply all or any of the collateral (including all rights and entitlements thereto, if any) at any time without

prior notice to a Participant in or towards satisfaction of the obligations and liabilities of such Participant to the Depository or such Participant 's obligations and liabilities to a Client.

- 6.3.15 In respect of any sums received by the Depository from a Participant as collateral, the obligation of the Depository to such Participant shall be to the extent of the amount remaining after satisfaction of all obligations and liabilities (actual or contingent) of such Participant to the Depository and such Participant's obligations and liabilities to a Client.
- 6.3.16 Each Participant shall indemnify the Depository and its officers and employees and hold each of them harmless against all costs, fees, expenses, liabilities, taxes, actual losses and damages of any nature whatsoever suffered or incurred by any of them directly or indirectly as a result of or in connection with the following matters:-
- (i) the participation in the Depository system by the Participant and /or its activities in the Depository including the provision of services by the Participant to the client and the provision of services by the Depository to the Participant and all matters relating thereto as contemplated in the Bye Laws;
  - (ii) the failure by the Participant to comply with the provision of the Bye Laws and the Participant agreement (including without limitation, the representations and warranties contained therein) or to comply with any directions or procedures of the Depository;
  - (iii) the acts by the Depository or its officers and employees done by placing reliance upon instructions or communications believed in good faith by any of them to have been given by or on behalf of the Participant (including, but not limited to, the giving of effect to such instructions or communications by any of them) or the failure of the Participant to give instructions to the Depository as contemplated in the Bye Laws;
  - (iv) the acceptance by the Depository of eligible securities deposited by the Participant and giving effect to transactions relating thereto by the Depository in accordance with the Bye Laws and thereunder the withdrawal of eligible securities by the Participant;
  - (v) the failure by the Participant to deliver eligible securities, or to perform such other duties or obligations contemplated in the bye laws. Nothing contained above

shall apply to the extent the Depository or its employees are guilty of negligence, wilful misconduct or fraud on their part and are responsible for the losses.

- 6.3.17 For the purpose of determining whether a Participant is liable for any acts or omissions under these Bye Laws, the acts or omissions, whether done intentionally or not, by its officers, employees, agents and representatives, shall be deemed to be acts or omissions of the Participant.
- 6.3.18 Notwithstanding anything to the contrary in the Bye Laws, the Depository shall not be bound to effect any transaction or take any other action upon the instructions of a Participant if it would violate any applicable law, decree, court order, regulation or order of any government or other competent authority or if the Depository determines that it will not be in the interests of the Depository, Participants or the general investors.
- 6.3.19 Notwithstanding anything to the contrary in the Bye Laws, the Depository shall have the right to initiate a transaction or to take any other action in order to give effect to the order or judgment of a court of law or the Central or State Government or any other competent statutory authority.
- 6.3.20 The Depository reserves the right to rectify any erroneous transaction made to the accounts of Participants and shall thereafter inform the concerned Participants of such rectification.
- 6.3.21 Without prejudice to any other right the Depository may have, if as a result of rectification by the Depository of any erroneous credit entries to the accounts of a Participant pursuant to these Bye Laws, a negative balance arises, the Depository may:
- (i) require the Participant to replace the relevant eligible securities in this connection;
  - (ii) require the Participant to pay to it forthwith a cash sum of such amount as the Depository considers appropriate as collateral and the only obligation of the Depository in respect of such sum so paid by the Participant shall be to pay such Participant an amount equal to the balance remaining after satisfaction of all obligations & liabilities (actual or contingent) of such Participant to the Depository. The Depository may itself at any time purchase as replacement, eligible securities on behalf of the Participant, at such price as may be determined by the Executive Committee to be the best prevailing market



price and terms, if any, or in other cases at its discretion on the terms available. The cost and other expenses in connection with purchase shall be borne by the Participant.

- 6.3.22 Each Participant shall be responsible to indemnify the Depository against all costs, fees, expenses, liabilities, actual losses and damages of any nature whatsoever incurred by the Depository as a result of or in connection with the purchase of replacement eligible securities by the Depository on behalf of the Participant.
- 6.3.23 No Participant shall assign its business as a Participant to any other person except with the prior approval of the Executive Committee which may notify from time to time the terms and conditions subject to which it may assign its business as a Participant to any other person.
- 6.3.24 Where a Participant (hereinafter referred to as "Transferor Participant") seeks to transfer the Participant business carried on by it to any transferee (hereinafter referred to as "Transferee Participant"), the assignment of the business or functions of the Transferor Participant to the Transferee Participant shall be regarded as complete and effectual only upon:-
- (a) the Transferee Participant meeting all applicable eligibility criteria prescribed for conduct of business as a Participant;
  - (b) the Transferor Participant giving written notice to each of its Clients about the proposed transfer providing each client an option, which may be exercised within a period of not less than 60 days from receipt of such notice; and
  - (c) the Transferor Participant and the Transferee Participant publishing a joint advertisement of the notice of the proposed transfer in such form as may be prescribed by the Executive Committee in one English national daily, one Hindi national daily with wide circulation and a regional language daily with wide circulation.
- 6.3.25 Upon receipt of such notice, each Client shall have a right to elect in writing either (i) to continue as a Client of the Transferee Participant on the same terms and conditions as governed the receipt of services from the Transferor Participant; or (ii) to terminate its existing arrangement with the Transferor Participant and provide to the Transferor Participant details of the new Participant selected by the Client for shifting of all securities held through the Participant. Failure to issue such written election within the prescribed option period shall be deemed an election by the Client to continue as a Client of

the Transferee participant. Nothing contained herein shall restrict the ability of the Client to terminate its relationship with the Transferee Participant.

- 6.3.26 Subject to compliance with the foregoing, the Transferee Participant and the Clients electing to continue with the relationship shall be bound by the existing agreements between the Transferor Participant and its Clients in the same manner and on the same terms and conditions as if the Transferee Participant had itself originally executed such agreements with the Clients. Such assignment of the agreements from the Transferor Participant to the Transferee Participant shall be subject to the equities to which the parties were subject as at the date of the transfer. After such transfer, the Transferee Participant shall notify the Clients in writing as regards the completion of the assignment of the business in favour of the Transferee Participant.

#### **6.4 Rights and Obligations of Participants and Clients**

- 6.4.1 No Participant shall conduct business as a Participant with its Clients unless it has entered into an agreement with its Clients.
- 6.4.2 Every Participant shall enter into an agreement referred to above with each of its Clients as per Annexure B of these Bye Laws :

Provided that in case of:

- (i) foreign institutional investors registered with the Securities and Exchange Board of India and who have entered into an agreement with the Participant either directly or through their power of attorney holders in accordance with the provisions of sub-regulation (1) of regulation 16 of the SEBI (Foreign Institutional Investors) Regulations, 1995; and
- (ii) such agreement gives the Participant an authority to act on behalf of the foreign institutional investors for availing the services of the Depository; and
- (iii) such agreement has been filed with the Securities and Exchange Board. of India;
- (iv) International Multilateral Agency, who has entered into an agreement with the Participant under Regulation 17 of the SEBI (Custodians of Securities) Regulations 1996, and such agreement states that the Custodian will also act as a Participant and all provisions pertaining to Participant

shall be applicable; then such Participant need not enter into an agreement as per Annexure B of these Bye Laws.

6.4.3 The Participant shall thereafter open separate accounts of each of its Clients for holding security balances on behalf of its Clients.

6.4.4 Every Participant shall provide a transaction statement including statement of accounts, if any, to the Clients in such form as specified under the Business Rules. Such a statement shall be furnished to the Clients at monthly intervals, unless the Participant and its Clients have agreed otherwise. However, if there is no transaction in the account, then the Participant shall provide such statement to the Client atleast once a quarter.

Provided that in case of a Participant who has not entered into an agreement as per Annexure B of this Bye Laws with its Client in terms of the proviso to Bye Law 6.4.2, then the Participant shall provide the transaction statement including statement of accounts, if any, to the Client as agreed between the Participant and the Client.

6.4.5 The Participant shall act on the instructions of the Client provided in the manner laid down under the Business Rules.

6.4.6 The Participant shall maintain a separate account for each Client and ensure that the securities of the Client are not mixed with its own securities.

### **Accounts/Transactions by Book Entry**

#### **9.1 Account Opening**

9.1.1 The Depository shall keep accounts separately in respect of each Participant. The Depository shall keep a record of each Client's account which shall be updated on a daily basis..

9.1.2 The Participant shall maintain separate accounts in respect of each Client and its own account. The Participant shall intimate the balances held in its own account and Client account to Depository on a daily basis.

9.1.3 Any prospective Client who wishes to avail the services of the Depository will have to open an account with the Depository through a Participant.

9.1.4 The Client will have to make an application for this purpose to the Participant in the format specified under the Business Rules.

- 9.1.5 The Client will be required to enter into an agreement with the Participant in accordance with the provisions of Chapter 6 of these Bye Laws.
- 9.1.6 Once the application has been accepted by the Participant, the applicant will be issued a Client account number.

## **9.2 Dematerialisation**

- 9.2.1 Credit of securities into the Depository shall be made either on account of dematerialisation of physical securities or on the fresh issue of securities in the dematerialised form.
- 9.2.2 A Client may convert his physical holdings of securities into dematerialised form by making an application to the Participant in a Dematerialisation Request Form (hereinafter referred to as DRF) in the form prescribed under the Business Rules along with the relevant security certificates.
- 9.2.3 The Participant shall forward the DRF so received, along with the security certificates, to the Issuer or its Registrar & Transfer Agent after electronically registering such request with the Depository. Such DRF shall be forwarded by the Participant not later than seven days of accepting the same from its Client.
- 9.2.4 The Depository will electronically intimate, on a daily basis, all dematerialisation requests to the respective Issuer or its Registrar & Transfer Agent.
- 9.2.5 The Issuer or its Registrar & Transfer Agent shall verify the validity of the security certificates as well as the fact that the DRF has been made by the person recorded as a member in its Register of Members.
- 9.2.6 After verification as aforesaid, the Issuer or its Registrar & Transfer Agent shall intimate the Depository authorising an electronic credit for that security in favour of the Client. On receipt of such intimation, the Depository shall cause necessary credit entries to be made in the account of the Client concerned.
- 9.2.7 No credit of any securities to the accounts of any Client shall be made unless the Depository has received an intimation from the Issuer or its Registrar & Transfer Agent or its agents as set out in Bye Law 9.2.6 above.
- 9.2.8 Where the Issuer or its Registrar & Transfer Agent rejects any dematerialisation request, it shall electronically intimate the Depository regarding such rejection within a period of fifteen days.

- 9.2.9 On the Issuer or its Registrar & Transfer Agent intimating to the Depository in the manner specified in Bye Law 9.2.8 above, the Issuer or its Registrar & Transfer Agent shall return the DRF along with the relevant security certificates unless the reasons for such rejections are:-
- (i) the security certificates are stolen or;
  - (ii) the security certificates are fake or;
  - (iii) in the event of an order from a court or a competent statutory authority prohibiting the transfer of such securities or;
  - (iv) in case duplicate certificates have been issued in respect of the securities with the same distinctive numbers.
- 9.2.10 In the event of an intimation being received by the Depository from Issuer or Registrar & Transfer Agent to credit the account of the Client with securities which do not match with the details of the Client or Participant, the balance shall be held in suspense account and shall be reconciled as provided in 9.7.1.
- 9.2.11 In the event of any person making a claim to the securities that are held in the name of the Client with the Depository after the same are so registered, such claim must be settled amongst the Participants, Clients and Issuer or its Registrar & Transfer Agent.
- 9.2.12 The Issuer or its Registrar & Transfer Agent giving intimation as set out in Bye Law 9.2.6 above, represents and warrants to the Depository that such securities exist and are validly issued and is entitled/or has full authority to transfer such securities with the Depository in the name of the Client.
- 9.2.13 If the names of the clients appearing on the security certificates match with the names in which the account has been opened but are in a different order, such securities can be dematerialised by following the procedure laid down in the Business Rules.
- 9.2.14 If a client is desirous of getting the name(s) of the deceased joint holder(s) removed from the security certificate(s) and get them dematerialised, it may do so by following the procedure laid down in the Business Rules.

### **9.3 Freezing/Unfreezing of an Account and/or ISIN and/or Specific Number of Securities under an ISIN**

- 9.3.1 The Client may request to freeze;

- (a) its account maintained with a Participant; or
- (b) a particular ISIN in its account; or
- (c) specific number of securities held under an ISIN in its account,

by giving an instruction to the Participant or to the Depository, in the form and manner prescribed under the Business Rules.

- 9.3.2 The Participant shall freeze the account and/or the ISIN and/or specific number of securities of a Client, on the basis of instructions received from the Client or pursuant to the orders received by the Participant or the Depository from the Central or State Government, the Securities and Exchange Board of India or any order passed by a court, tribunal, or any other statutory authority in this regard.
- 9.3.3 The Depository, at the request of a Participant or on the basis of the request received from the Client or pursuant to the orders received from the Central or State Government, the Securities and Exchange Board of India or any order passed by a court, tribunal or any other statutory authority, shall freeze the account and/or the ISIN and/or specific number of securities of the Client.
- 9.3.4 The Depository shall, on its own freeze the Participant's own account and/or the ISIN and/or specific number of securities to the extent of the securities held in the Participant's name, or advise the Participant to do so, under the following circumstances:-
- (i) on the basis of the orders received from the Central or State Government or the Securities and Exchange Board of India or any court or tribunal or any other statutory authority in this regard; or
  - (ii) on the basis of the orders passed by the Disciplinary Action Committee as set out in Chapter 11 of the Bye Laws; or
  - (iii) the Participant has become insolvent, bankrupt or in case the Participant is a body corporate, it being wound up.
- 9.3.5 The account and/or the ISIN and/or specific number of securities, which were frozen in terms of the Bye Laws 9.3.1, 9.3.2, 9.3.3 and 9.3.4, may be unfrozen as per the procedure prescribed under the Business Rules in this regard.

#### **9.4 Rematerialisation**

- 9.4.1 A Client may withdraw its security balances with the Depository

at any point of time by making an application to that effect to the Depository through its Participant.

- 9.4.2 A Participant holding its own securities in the Depository may withdraw its security balances with the Depository by making an application to that effect to the Depository.
- 9.4.3 The Client shall make the request for withdrawal of the balance in his account in the Rematerialisation Request Form (hereinafter referred to as RRF) as specified in the Business Rules
- 9.4.4 On receipt of the RRF, the Participant shall check whether sufficient free relevant security balance is available in the account of the Client. If there is sufficient balance, the Participant shall accept the said RRF and block the balance of the Client to the extent of the rematerialisation quantity and electronically intimate the request to the Depository.
- 9.4.5 On receipt of the request referred to in Bye Law 9.4.4 above, the Depository shall block the balance of the Participant to the extent of rematerialisation quantity in Depository system.
- 9.4.6 The Depository will intimate electronically all such accepted rematerialisation applications to the Issuer or its Registrar & Transfer Agent on a daily basis.
- 9.4.7 The Participant shall forward the RRF to the Issuer or its Registrar and Transfer Agent within seven days of accepting such request from the Client. The Issuer or its Registrar & Transfer Agent after validating the RRF will confirm electronically to the Depository that the RRF has been accepted. Thereafter the Issuer or its Registrar and Transfer Agent shall despatch the share certificates arising out of the rematerialisation request within a period of thirty days from receipt of such Rematerialisation Request Form.
- 9.4.8 On receipt of such acceptance from the Issuer or its Registrar and Transfer Agent, the Depository shall remove the balances from the respective Participant's account and the Participant shall remove the balance from the respective Client's account.

## **9.5 Account Closure**

- 9.5.1 A Client wanting to close an account shall make an application, in the format specified to that effect in the Business Rules to the Participant
- 9.5.2 The Client may close its account if no balances are standing to its credit in the account. In case any balances exist, then the account may be closed in the following manner:-

- (i) by rematerialisation of all its existing balances in its account; and / or;
- (ii) by transferring its security balances to its other account held either with the same Participant or with a different Participant.

9.5.3 The Participant shall ensure that all pending transactions as well as suspended accounts have been adjusted before closing such account. After ensuring that there are no balances in the Client account, the Participant shall execute the request for closure of the Client's account.

### **9.6 Transfer of Balances**

9.6.1 The Participant shall not execute any debit or credit in the account of the Client without authorisation from such Client.

9.6.2 The mode and the form of authorisation shall be specified in the Business Rules.

9.6.3 Where there is transfer of balance from the Client of one Participant to the Client of another Participant, both the delivering and the receiving Participant must enter instructions for delivery and receipt respectively. After the instructions are matched in the Depository system, such transfer shall be executed in the Participant 's account in the Depository and the Participant shall in turn execute such transfer in the Client's account.

9.6.4 In the event of a Participant ceasing to be a Participant for the Depository, the Client of that Participant may, either request for rematerialisation of securities or request for the transfer of balances in its account with another Participant.

9.6.5 The Depository may on receipt of a court order transfer the balances standing in the Participant 's account to another Participant account.

### **9.7 Securities held in Suspense**

9.7.1 The Depository may place any balance of relevant securities in a suspense account held with the Depository if it is unable to effect or give credit of a security to the account of a Participant and/or the Client as a result of incorrect electronic intimation received from the Issuer or its Registrar & Transfer Agent. Such balances shall be reconciled within a period of fifteen days failing which the Depository shall authorise the Issuer or its Registrar and Transfer Agent to issue physical securities to the concerned investors.



**9.8 Corporate Benefits**

- 9.8.1 The Issuer or its Registrar & Transfer Agent shall intimate the Depository of the corporate actions which would herein mean and include any action taken by the Issuer relating to prescribing dates for book closures, record dates, dates for redemption or maturity of security, dates of conversion of debentures, warrants, call money dates and such other action from time to time.
- 9.8.2 On receiving the intimation as stated above, the details of the holdings of the Clients/Clearing Members/Clearing Corporations shall be provided electronically by the Depository to the Issuer or its Registrar & Transfer Agent as of relevant cut off date for the purpose of corporate actions and distribution of corporate benefits.
- 9.8.3 The Issuer or its Registrar & Transfer Agent shall, on the basis of the list provided by the Depository, distribute dividend, interest or other monetary benefits to the Clients and to the Clearing Members/Clearing Corporations for onward distribution to the Clients. Provided however that the Issuer or its Registrar & Transfer Agent may opt to distribute the dividend, interest or other monetary benefits through the Depository with the concurrence of the Depository.
- 9.8.4 The Issuer or its Registrar & Transfer Agent may, if the benefits are in the form of securities, distribute such benefits to the Clients/Clearing Members/Clearing Corporations through the Depository provided that:-
- (i) the newly created security is an eligible security;
  - (ii) the concerned entity has consented to receive the benefits through the Depository.
- 9.8.5 In such cases, the Issuer or its Registrar & Transfer Agent shall provide allotment details of all Clients /Clearing Members/ Clearing Corporations to the Depository.
- 9.8.6 On receipt of the allotment details, the Depository shall cause necessary credit entries to be made in the accounts of the Clients and to the Clearing Members/Clearing Corporations for onward distribution to the Clients. Corporate benefits availed by Clearing Member, Clearing Corporations and Intermediaries shall be held in trust on behalf of beneficiary owners.
- 9.8.7 The Clauses 9.8.1 to 9.8.6 shall not apply in case of Government securities issued by a State or the Central

Government. Provided however that, the payment of interest or the principal amount or any amount in respect of Government Securities shall be in accordance with the terms of issue of Government Securities.

### **9.9 Pledge and Hypothecation**

- 9.9.1 If a Client intends to create a pledge on a security owned by him, he shall make an application in this regard in the form specified in the Business Rules to the Depository through the Participant, who has his account in respect of such securities.
- 9.9.2 The pledgor and the pledgee must have an account in the Depository to create a pledge. However, the pledgor and the pledgee may hold an account with two different Participants.
- 9.9.3 The Participant after satisfaction that the securities are available for pledge shall make a note in its records, of the notice of pledge, and forward the application to the Depository.
- 9.9.4 The Depository, after receiving confirmation from the Participant of the pledgee through an application made by the pledgee to the Participant in the form specified in Business Rules in this regard, shall within fifteen days of the receipt of the application create and record the pledge and send an intimation of the same to the Participants of pledgor and pledgee.
- 9.9.5 On receipt of the intimation under Bye Law 9.9.4 above, the Participants of both the pledgor and the pledgee shall inform the pledgor and the pledgee respectively of the entry of creation of the pledge.
- 9.9.6 If the Depository does not create the pledge, it shall within fifteen days of the receipt of application under Bye Law 9.9.1 send alongwith the reasons, an intimation to the Participants of the pledgor and the pledgee.
- 9.9.7 The pledgor or pledgee may request cancellation of the entry of pledge made under Bye Law 9.9.4 by making an application in the form specified in this regard in the Business Rules to the Depository through its Participant.
- 9.9.8 The Participant shall make a note in its records, of the cancellation of the entry of pledge and forward the request to the Depository.
- 9.9.9 The Depository, after receiving prior confirmation from the Participant of the pledgee through an application made by the pledgee to the Participant in the form specified in Business Rules in this regard, shall cancel the entry of pledge made

under Bye Law 9.9.4 and send an intimation of the same to the Participants of pledgor and pledgee.

- 9.9.10 The pledgee may invoke the pledge made under Bye Law 9.9.4, subject to the provisions of the pledge document, by making an application in the form specified in this regard in the Business Rules, to the Depository through its Participant.
- 9.9.11 The Participant shall make a note in its records, of the request of invocation of the entry of pledge and forward the request to the Depository.
- 9.9.12 The Depository, on receipt of a request under Bye Law 9.9.11, shall invoke the pledge and amend its record accordingly to register the pledgee as a beneficial owner of the securities and shall thereafter, send intimation of the same to the Participants of the pledgor and the pledgee.
- 9.9.13 On receipt of the intimation under Bye Law 9.9.12 above, the Participants of both the pledgor and the pledgee shall inform the pledgor and the pledgee respectively of the invocation of pledge.
- 9.9.14 (i) If the Client intends to create a hypothecation on the securities owned by him, he may do so in accordance with the provisions of Bye Laws 9.9.1 to 9.9.13.
- (ii) The provisions of Bye Law 9.9.1 to 9.9.13 shall *mutatis mutandis* apply in such cases of hypothecation except in so far as Bye Law 9.9.4, the Depository shall invoke the entry of hypothecation made under Bye Law 9.9.4 after receiving confirmation from the Participant of the hypothecator through an application made by the hypothecator to the Participant in the form specified in this regard in the Business Rules.
- 9.9.15 No transfer of security in respect of which a notice or entry of pledge or hypothecation is in force shall be effected by a Participant without the prior concurrence of the pledgee or the hypothecatee as the case may be.

#### **9.10 Transmission of Securities**

- 9.10.1 NSDL shall effect the transmission of security balances of any Client due to death, lunacy, bankruptcy, insolvency or by any other lawful means other than transfer.
- 9.10.2 In case where the deceased was one of the jointholders in the Client account, the surviving Client(s) shall be the person(s)

recognised by NSDL as having any title to the security balances in that joint Client account.

- 9.10.2.1 In cases where the deceased is the Karta of a Hindu Undivided Family ("HUF") holding securities in such capacity, the surviving member(s) of the HUF may notify to NSDL the eldest surviving member of the HUF as the Karta of the HUF in accordance with law, and subject to production of such evidence and execution of such documents as may be prescribed in the Business Rules, the name of such newly designated Karta shall be entered in the records of NSDL as having title to the securities held in the beneficial owner account held by the deceased Karta. Provided however that such facility shall be permitted by NSDL only if the gross value of the securities lying to the credit of such beneficial account does not exceed such limit as may be prescribed by NSDL in its Business Rules from time to time. In all other cases, no change of name of account holder shall be permitted unless supported by a succession certificate and such other requirements as may be prescribed in accordance with law.
- 9.10.3 In case where the deceased was a sole holder of the Client account, his legal heir(s) or the legal representative(s) shall be the only person(s) recognised by NSDL as having any title to the security balances in that sole Client account.
- 9.10.4 Such surviving joint holder(s) or legal heir(s) or legal representative(s) shall be required to produce such evidence and follow the procedures prescribed in the Business Rules for the purpose of transmission of security balances in their favour.

#### **9.11 Transmission of Securities in case of Nomination.**

- 9.11.1 In respect of every account, the Beneficial Owner(s) ("Nominating Person(s)") may nominate any person ("Nominee") to whom his securities shall vest in the event of his death in the manner prescribed under the Business Rules from time to time.
- 9.11.2 The securities held in such account shall automatically be transferred in the name of the Nominee, upon the death of the Nominating Person, or as the case may be, all the Nominating Persons subject to the other Bye Laws mentioned hereunder.
- 9.11.3 A minor may be nominated to the interest in an account under these Bye Laws, provided the Nominating Person(s) follow(s) such requirements as may prescribed under the

Business Rules, including without limitation, provision of the name and address of the guardian of such minor to the Participant and the Depository

- 9.11.4 Beneficial Owner(s) may substitute or cancel a nomination at any time. A valid nomination, substitution or cancellation of nomination shall be dated and duly registered with the Participant in accordance with the Business Rules prescribed therefor. The closure of the account by the Nominating Person(s) shall conclusively cancel the nomination.
- 9.11.5 A Nominee shall not be entitled to exercise any right conferred on Beneficial Owners under these Bye Laws, upon the death of the Nominating Person(s), unless the Nominee follows the procedure prescribed in the Business Rules for being registered as the Beneficial Owner of the securities of the Nominating Person(s) in the books of the Depository.
- 9.11.6 A nominee shall on the death of the Nominating Person(s) be entitled to elect himself to be registered as a Beneficial Owner by delivering a notice in writing to the Depository, along with the certified true copy of the death certificate issued by the competent authority as prescribed under the Business Rules. Subject to scrutiny of such election, the securities in the Account shall be transmitted to the account of the Nominee held with any depository.
- 9.11.7 Notwithstanding anything contained in any other disposition and/or nominations made by the Nominating Person(s) under any other law for the time being in force, for the purposes of dealing with the securities lying to the credit of deceased Nominating Person(s) in any manner, the Depository shall rely upon the last nomination validly made prior to the demise of the Nominating Person(s). The Depository shall not be liable for any action taken in reliance upon and on the basis of nomination validly made by the Nominating Person(s).
- 9.11.8 The Depository shall, on receipt of notice or on obtaining intimation about the death of the nominating person(s), issue a notice requiring the person recorded as a Nominee in its records to make an election to have the beneficial ownership of the relevant securities registered in the name of such Nominee. Further, the Depository shall take such action including suspending any transaction in the account of the Nominating person(s) for debits, till such time the requirements of the notice are complied with.

## **9.12 Dematerialisation of Government Securities.**

- 9.12.1 Credit of securities into the Depository shall be made on

account of dematerialisation of physical securities or on account of transfer from Subsidiary General Ledger (SGL) accounts maintained by other eligible entities or on fresh issue of securities in dematerialised form.

- 9.12.2 A Client may convert his physical holding of securities into dematerialised form by making an application to the Participant in the Dematerialisation Request Form (DRF-GS) along with relevant security certificate and Form of transfer prescribed by RBI as contained in the Business Rules.
- 9.12.3 Client may transfer his holdings in dematerialised form held in an SGL account with other eligible entity by making an application to the Participant in the Dematerialisation Request Form (DRF-GS) as prescribed under the Business Rules along with SGL transfer documents as prescribed under Rule 7 of P.D. Rules of RBI duly executed by the other eligible entity from whose SGL account the transfer is sought.
- 9.12.4 The Participant shall forward the DRF-GS and the documents so received, along with the security certificates, wherever applicable, to the Depository after electronically registering such a request in the DPM. Such DRF-GS shall be forwarded by the Participant to the Depository not later than seven days of accepting the same from its Client.
- 9.12.5 The Depository shall cause the necessary credit entries to be made in the account of the Client concerned, after obtaining prior approval from RBI for conversion of physical securities into SGL balances or for transfer of balances from SGL account maintained by other eligible entities, as the case may be.
- 9.12.6 Where any dematerialisation request is rejected by RBI, the Depository shall electronically intimate the Participant regarding such rejection within a period of seven days.
- 9.12.7 On receipt of rejection of the dematerialisation request, the Depository shall return the DRF along with the relevant security certificates and documents submitted by the Client unless the reasons for such rejections are:-
  - (a) the security certificates lodged by the Client are reported to be stolen;
  - (b) the security certificates are reported to be forged or fake;
  - (c) an order from a court or a competent statutory authority restraining the Depository from doing so;
  - (d) any other reason which in the opinion of RBI, that it would not be proper to return the security certificates.

**9.13 Withdrawal of Government securities from the Depository.**

- 9.13.1 A Client or a Participant holding its own securities in the Depository may withdraw the same and seek physical certificate or seek transfer to an SGL account of other eligible entity by making an application to that effect to the Depository in the Rematerialisation Request Form (hereinafter referred to as RRF-GS) as specified in the Business Rules.
- 9.13.2 On receipt of the RRF-GS, the Participant shall check whether sufficient free relevant security balance is available in the account of the Client. If there is sufficient balance, the Participant shall accept the said RRF-GS and block the balance of the Client to the extent of the requested quantity and electronically intimate the request to the Depository.
- 9.13.3 On receipt of the request referred to in Bye Law 9.13.2 above, the Depository shall block the balance of the Participant to the extent of rematerialisation quantity in Depository system.
- 9.13.4 The Participant shall forward the RRF-GS to the Depository within seven days of accepting such request from the Client. The Depository shall forward the rematerialisation request to RBI in the form prescribed by RBI.
- 9.13.5 In case the request was for physical certificates, the Depository shall receive from RBI the physical certificates in its name and execute a form of transfer as prescribed by RBI in favour of the Client. The Depository shall confirm the acceptance of RRF-GS electronically and forward the physical certificates along with the form of transfer to the Client directly.
- 9.13.6 In case the request was for transfer to an SGL account with other eligible entity, the Depository shall confirm the acceptance of RRF electronically to the Participant, after obtaining approval from RBI.
- 9.13.7 On receipt of such confirmation from RBI as mentioned in Clause 9.13.5 and 9.13.6 above, the Depository shall remove the balances from the respective Participant's account and the Participant shall remove the balances from the respective Client's account.

**9.14 Securities Lending.**

- 9.14.1 Any entity desirous to lend or borrow securities may do so in the manner laid down under SEBI (Securities lending scheme), 1997 or any amendment thereof.
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**RELEVANT BYE LAWS OF CDSL\*****5.3. Rights and Obligations of Participants in Relation to CDSL**

- 5.3.1. No participant shall conduct any business as a participant unless it has entered into an agreement with CDSL as per Annexure "B" to these Bye Laws.
- 5.3.2. A participant while conducting any business as a participant with a Beneficial Owner shall act as an agent of CDSL.
- 5.3.3. The participant shall not effect a debit or credit to the account of a Beneficial Owner without appropriate instruction from the Beneficial Owner or CDSL.
- 5.3.4. Separate accounts shall be maintained by every participant in the name of each of its Beneficial Owners and the securities of each Beneficial Owner shall be segregated, and shall not be mixed up with the securities of other Beneficial Owners or with the participant's own securities.
- 5.3.5. The participant shall submit the following information to CDSL:
  - 5.3.5.1. *Networth certificate:*

The participant shall submit Net worth certificate to CDSL every year in the manner prescribed in the Operating Instructions.

Provided that when CDSL is satisfied that circumstances warrant an extension of time to furnish the net worth certificate, it may grant such extension to the participant.
  - 5.3.5.2. In the case of a participant being a Stock Broker, the participant shall ensure that the aggregate market value of portfolio of securities of all the Beneficial Owners held in dematerialised form in CDSL through him shall be as specified by SEBI from time to time and if it so exceeds on any given day, the participant shall forthwith inform CDSL about it. CDSL shall have a right to give such instructions as it deems fit in order to reduce the aggregate market value of portfolio of securities of all the Beneficial Owners held in dematerialised form in CDSL through such participant;

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\* Source : [www.cdslindia.com](http://www.cdslindia.com).



- 5.3.5.3. In case the participant is a member of any recognised stock exchange and/or any Clearing Corporation, in the event of violation of any rules, regulations or bye-laws of the stock exchange or the Clearing Corporation or in the event of suspension or termination of its membership by the stock exchange or the Clearing Corporation as the case may be, the participant shall forthwith inform CDSL of the same.
- 5.3.5.4. The number of complaints received from Beneficial Owners during the previous month, unresolved complaints of previous period, their nature, status and manner of redressal, once every month;
- 5.3.6. It shall be the responsibility of each participant to promptly check and reconcile with its own records the details of all advices, statements and reports received by the participant from CDSL and to promptly notify CDSL of any error or omission contained in such advices, statements and reports.
- 5.3.7. Any advice, statement or report provided by CDSL shall in the absence of manifest error or fraud be conclusive as to its subject matter. Except as otherwise agreed by CDSL, the failure of a participant to inform CDSL of any error or omission in any advice, statement or report within the time frame stipulated by CDSL shall constitute a waiver in favour of CDSL by such participant of any right to require rectification.
- 5.3.8. CDSL may, if it is satisfied that it is in the interest of the Beneficial Owners, entertain a late request by a participant to rectify an error or omission as aforesaid. If CDSL entertains a late request by a participant, the participant shall be liable for any loss caused due to such late request.
- 5.3.9. Every participant shall reconcile its records with those of CDSL on a daily basis.
- 5.3.10. CDSL may at any time require a participant to provide on demand, security or additional or collateral security in such form, extent and manner as is determined by CDSL. For determining the amount of security or additional or collateral security, CDSL shall take into account inter alia, the level of unreconciled balance and excess or deficit balance of securities due to any fraud, negligence, error or omission on the part of the officers, agents and employees of the participant. The security shall be in addition to and

- independent of any security which CDSL may at any time hold for the obligations and liabilities of such participant.
- 5.3.11. Without prejudice to the above, CDSL may, for the purpose of deciding whether or not to require a participant to provide security, specify exposure limits on a participant.
- 5.3.12. A participant shall not create or permit the creation of any mortgage, charge or other encumbrance over all or any of the assets provided as security or for such similar purpose to CDSL.
- 5.3.13. A participant shall, before entering into any agreement with or opening any account or while acting upon the instruction of any Beneficial Owner during the subsistence of such agreement:
- 5.3.13.1. make such inquiries as may be necessary and exercise due care and caution in ascertaining the bonafides of the intending Beneficial Owner *inter alia*, by carrying out appropriate due diligence.
  - 5.3.13.2. scrutinize the authenticity of the documents produced by the Beneficial Owner for opening the account or for dematerialisation of securities.
  - 5.3.13.3. in case of joint owners of securities, obtain authority in writing from all such joint owners.
- 5.3.14. Subject to the provisions of any other law, every participant shall preserve for a period of five years, all original documents such as account opening forms, agreements with Beneficial Owners, dematerialisation request forms, rematerialisation request forms and instructions received from Beneficial Owners.
- 5.3.15. Every participant shall be primarily responsible for payment to CDSL of all charges, fees, dues, and penalties in respect of all transactions carried out by or through that participant in CDSL irrespective of whether the participant has recovered any such amount from the concerned Beneficial Owner or not, such recovery from the Beneficial Owner being the sole responsibility of the participant.
- 5.3.16. Every participant shall carry out instructions received from any Beneficial Owner on the same day in as far as may be possible and failing that before the close of working hours of the immediately succeeding working day.
- 5.3.17. Every participant shall have a lien on and shall be entitled with the prior approval of CDSL, to exercise lien on any securities belonging to the Beneficial Owners held in dematerialised form in any account with the participant by

freezing all operations by the Beneficial Owner in respect of securities held in the Beneficial Owner's account with the participant, as security for recovery of dues owed by Beneficial Owner to the participant in his capacity as such including any compensation for any loss caused to the participant and/or CDSL by reason of fraud, negligence or mistake on the part of the Beneficial Owner. The participant shall, upon receipt of such approval from CDSL, give notice in writing to the concerned Beneficial Owner of the exercise of such lien by the participant in respect of such of the securities held in the Beneficial Owner's account as CDSL may specify.

- 5.3.18. The participant shall, upon discovering any loss of any securities, instruments, or documents, that may have come into the hands of the participant in the course of its business, forthwith notify CDSL, and the concerned Issuer or its RTA and Beneficial Owner in that behalf.
- 5.3.19. It shall be the responsibility of every participant to ensure that proper stamp duty in accordance with law is paid by the Beneficial Owners and Clearing Members holding accounts with the participant in respect of all transactions effected by or through the participant.
- 5.3.20. CDSL may apply all or any of the securities (including all rights and entitlements thereto, if any) owned or belonging to and furnished by a participant at any time without prior notice to a participant in or towards satisfaction of any of the obligations and liabilities of such participant to CDSL or such participant's obligations and liabilities to its Beneficial Owners.
- 5.3.21. In respect of any sums received by CDSL from a participant as security, the obligation of CDSL to such participant shall be to the extent of the amount remaining after satisfaction of all obligations and liabilities (actual or contingent) of such participant to CDSL, Beneficial Owners, Issuers, RTAs, Clearing Corporation and other participants.
- 5.3.22. Every participant shall indemnify and keep indemnified and saved harmless CDSL, its officers, employees and agents from all harm, loss, damage, injury, taxes, penalties, levies, cesses and duties whatsoever, and from and against all suits, action, arbitration, disciplinary action, prosecution or other proceedings (including all costs, charges and expenses relating thereto) suffered or incurred by CDSL, its officers, employees or agents or any of them, whether directly or indirectly on account of or as a result of any act, deed,

matter or thing made done committed or omitted, or suffered or permitted or caused to be done by the participant, its officers, employees, servants or agents contrary to or inconsistent with or in breach of any provisions of the Act, Regulations, these Bye Laws, or the terms, condition and covenants contained in its agreement with CDSL or by reason of any mistake, error, misfeasance, willful misconduct, misrepresentation, fraud, forgery, theft, misappropriation or breach of trust by the participant, its officers, employees, servants or agents or on account of the participant failing to meet any of its obligations and/or liabilities to CDSL and/or to any of its Beneficial Owners and/or to any participants, Issuers, RTAs, and Clearing Corporations.

- 5.3.23. For the purpose of determining whether a participant is liable for any acts or omission under the Act, Regulations, these Bye Laws, agreements, Operating Instructions issued by CDSL, the acts or omissions, whether done intentionally or not, of its officers, employees, servants and agents, shall be deemed to be acts or omissions of the participant.
- 5.3.24. In case where CDSL, its officers, employees and agents suffer or incur harm, loss, damage, injury, taxes, penalties, cesses, duties, suit, action, arbitration, disciplinary action, prosecution or other proceedings (and all costs, charges and expenses relating thereto) suffered or incurred by them or any of them, whether directly or indirectly on account of or as a result of any act, deed, matter or thing made done committed or omitted, or suffered or permitted or caused to be done or any default or breach of the Act, Regulations, these Bye Laws, agreements, and Operating Instructions issued by CDSL or any misrepresentation, fraud, forgery, theft, misappropriation or breach of trust by the participant, its officers, employees, servants or agents or on account of the participant failing to meet any of its obligations and/or liabilities to CDSL and/or to any of its Beneficial Owners and/or to any participants, Issuers, RTAs, and Clearing Corporations, CDSL shall have the right to recover from such participant, such amount as CDSL may deem fit and appropriate. In case any loss is caused to the Beneficial Owner due to the negligence of any participant, CDSL shall indemnify the loss incurred by such Beneficial Owner and where such loss due to the negligence of the participant is indemnified by CDSL as provided in Section 16(1) of the Act, CDSL shall have the right to recover the same from such participant.

- 5.3.25. Notwithstanding anything to the contrary in the Bye Laws, CDSL shall not be bound to give effect to any transaction or take any other action upon the instructions of a participant if it would violate any applicable law, decree or order of a competent court or tribunal or an order of the Central or State Government or SEBI or that of any other competent authority.
- 5.3.25A Any order of a Court, Tribunal, Government or other competent authority relating to freezing of a beneficial owner account or taking any action in relation to a beneficial owner account which is within the purview of obligations cast on a depository under the Act and/or Regulations, shall be effected by CDSL or participant only on receipt from such authority the Beneficial Owner Identification Number (BOID) or Permanent Account Number (PAN) coupled with specific directions if the same are not set out in such order with sufficient accuracy.
- 5.3.26 Nothing herein contained shall prevent CDSL from effecting any transaction or refusing to give effect to any transaction in compliance with any decree or order of a competent court or tribunal or an order of the Central or State Government or SEBI or that of any other competent authority.
- 5.3.27. CDSL reserves the right to rectify any erroneous transaction made to the account of any Beneficial Owner with a participant. In the event of CDSL carrying out any rectification, CDSL shall inform the concerned participant and Beneficial Owner of such rectification.
- 5.3.28. Without prejudice to any other right CDSL may have, in the event of any erroneous transaction having been effected on account of any error, mistake or negligence on the part of the participant resulting in a negative balance in the account of any Beneficial Owner, CDSL may:
- 5.3.28.1. require the participant to replenish the relevant securities forthwith;
  - 5.3.28.2. require the participant to pay to it forthwith a cash sum of such amount as CDSL considers appropriate as security and the only obligation of CDSL in respect of such sum so paid by the participant shall be to pay such participant an amount equal to the balance remaining to its credit after satisfaction of all obligations and liabilities (actual or contingent) of such participant to CDSL or to a Beneficial Owner. CDSL may

itself at any time purchase as replenishment, eligible securities on behalf of the participant, at such price as may be determined by CDSL to be the prevailing market price and terms, if any, or in other cases at its discretion on the terms available. The cost and other expenses incurred by CDSL in connection with purchase shall be borne by the participant.

- 5.3.29. Each participant shall be responsible to indemnify CDSL against all costs, fees, expenses, liabilities, losses and damages of any nature whatsoever incurred by CDSL as a result of or in connection with the purchase or replenishment of eligible securities by CDSL on behalf of the participant.
- 5.3.30. No participant shall assign its business and/or functions as a participant or entrust the control or conduct of its business and/or functions to any person except with the prior written approval of CDSL and subject to such terms and conditions as CDSL may stipulate from time to time. For the purposes of this clause, any substantial change in the share holding pattern or constitution of the Board of Directors or in the composition of the partnership shall constitute an assignment of the business and/or functions.
- 5.3.31 It shall be the duty of the participant to ensure that no account of any Beneficial Owner is opened unless it complies with all the provisions of the Act, Regulations, these Bye Laws including any Operating Instructions, Communiqués, letters or communication in any form issued by CDSL and circulars issued by SEBI and RBI, from time to time as may be applicable.

#### **5.4. Rights and Obligations of Participants in Relation to Beneficial Owners**

- 5.4.1. No participant shall conduct business as a participant with a Beneficial Owner unless it has entered into an agreement with the Beneficial Owner as per the form at Annexure "C" to these Bye Laws provided however that no such agreement shall be required to be executed by the participant with the Beneficial Owner if the following conditions are met :
- 5.4.1.1. The Beneficial Owner belongs to any of the following categories:
- 5.4.1.1.1. A foreign institutional investor registered with the SEBI, who has entered into an agreement with the Participant either directly or through

its power of attorney holder in accordance with the provisions of Regulation 16 of the SEBI (Foreign Institutional Investors) Regulation, 1995. Provided that such agreement gives the Participant an authority to act on behalf of the foreign institutional investor for availing the services of the Depository; and a copy of such agreement has been filed with the SEBI.

- 5.4.1.1.2 An International Multilateral Agency and Global Custodian who has entered into agreement with the Participant who has entered into an agreement with the Participant pursuant to Regulation 17 of the SEBI (Custodians of Securities) Regulations, 1996 and such agreement inter alia confers authority on the Participant to avail of the depository services on behalf of an International Multilateral Agency and Global Custodian.
- 5.4.2. In case such agreement is terminated by either party thereto or the authority conferred on the participant is withdrawn by the Beneficial Owner, the participant shall forthwith intimate CDSL of such termination or withdrawal of authority.
- 5.4.3. Notwithstanding termination of such agreement by the Participant or withdrawal of the authority so conferred by the Beneficial Owner, the provisions of the agreement and all mutual rights and obligations arising therefrom in so far as they relate to dealing or operations in dematerialized securities, except in so far as the same are contrary to or inconsistent with such termination or withdrawal, shall continue to be binding on the parties in respect of all acts, deeds, matters and things done and transactions effected during the period when such agreement was effective.
- 5.4.4. Only after the Beneficial Owner shall have entered into an agreement in the form at Annexure "C" hereto with a participant shall that Beneficial Owner be permitted by that participant to open an account with it for holding security balances on behalf of such Beneficial Owner. The account

so opened shall be separate and distinct from accounts of other Beneficial Owners with that participant.

- 5.4.5. The participant shall act on the instructions of the Beneficial Owner or of such person as may have been duly authorised by the Beneficial Owner in that behalf in the manner specified by CDSL.
- 5.4.6. The participant shall maintain a separate account for each Beneficial Owner and ensure that the securities of the Beneficial Owner are not mixed with its own securities.
- 5.4.7. In the event of multiple instructions received from the Beneficial Owner relating to transfer of securities which exceed the balance in the account of the Beneficial Owner maintained with the participant, the sequence of execution of instructions by the participant shall be as follows:
  - 5.4.7.1. In the event of the Beneficial Owner specifying the sequence of execution of instructions, in the same sequence as specified by the Beneficial Owner to the extent it can be executed with the balance available in that Beneficial Owner's account with the participant;
  - 5.4.7.2. In the absence of specific instructions from the Beneficial Owner in the chronological order in which such instructions are received from the Beneficial Owner, to the extent it can be executed with the balance available in that Beneficial Owner's account with the participant.

## **6. RIGHTS AND OBLIGATIONS OF BENEFICIAL OWNERS**

- 6.1. A Beneficial Owner may open one or more accounts with one or more participants and may close one or more accounts with any or all participants or transfer his securities in one account with a participant to another account with the same participant or with any other participant.
- 6.2. The Beneficial Owner shall pay such fees, charges and deposits to the participant, as may be mutually agreed upon, for the purpose of opening and maintaining his/its account, for carrying out the instructions and for rendering such other services as are incidental or consequential to the Beneficial Owner holding securities in and transacting through the said account with the participant. The participant shall be entitled to change or revise the said fees, charges or deposits from time to time subject to such prior notice as may be agreed between the parties.



- 6.3. Every Beneficial Owner shall be primarily responsible for :
  - 6.3.1. the veracity of all statements and particulars set out in the account opening form and in the agreement with the participant ;
  - 6.3.2. the authenticity and genuineness of all documents submitted to the participant at the time of opening of an account with the participant.
  - 6.3.3. representation as to the title to the securities submitted to the participant for dematerialization.
  - 6.3.4. ensuring that the securities to the credit of his account are sufficient to meet the instructions issued to the participant for effecting any transaction.
  - 6.3.5. informing the participant at the earliest of changes in the account particulars of the Beneficial Owner such as address, bank details, status, authorisations, mandates, nomination, signature, etc.
  - 6.3.6. furnishing the accurate identification details whilst subscribing to any issue of securities.
- 6.4. Every Beneficial Owner shall be entitled to a statement of the account of that Beneficial Owner from his participant, atleast once at the end of every month in respect of every account if there has been even a single transaction during the month and in any event once at the end of each quarter even if there are no transactions in the account in respect of all accounts, provided however that a participant may provide such statements at such shorter periods as may be agreed upon between the participant and the Beneficial Owner on payment of such charges by the Beneficial Owner as may be specified by the participant, provided that where the participant is exempted from entering into an agreement as per Annexure "C" to these Bye laws with a Beneficial Owner, the participant shall provide statements of the Beneficial Owner's account to such Beneficial Owner with such periodicity as may be agreed by and between the participant and the Beneficial Owner.
- 6.5. In the event of dispute between the Beneficial Owner and his participant and the participant is not furnishing the statement of account, CDSL shall provide directly or cause to provide through such participant a statement of the account of such Beneficial Owner for such period as requested by the Beneficial Owner.
- 6.6. Every Beneficial Owner shall scrutinize every statement of his account received from participant for the accuracy and veracity thereof and shall be obliged to point out any mistakes, inaccuracies or discrepancies to the participant within a fortnight of the receipt of such statement.

- 6.7. Subject to the participant's right of lien and subject to any orders, injunctions, directions or instructions issued by a court, tribunal, SEBI, Central or State Government or other authority empowered in that behalf or by CDSL, every Beneficial Owner shall be entitled to have the instructions issued by him to the participant with whom such Beneficial Owner has an account carried out with utmost dispatch on the same day on which the instructions are issued and failing that before the close of working hours of the immediately succeeding working day provided however, that subject to the above, the Beneficial Owner may issue standing instructions to the Participant for crediting his account in accordance with the instructions.
- 6.8. Every Beneficial Owner shall exercise due care and caution so as to ensure the safe custody of delivery cheques received by him and shall immediately notify the participant and CDSL of any loss thereof and shall be liable for any misuse of any cheques on account of negligence on his part.
- 6.9. **Closure of Account**
- 6.9.1. The Beneficial Owner, may, at any time terminate the agreement with the participant without assigning any reason therefor by calling upon the participant to close his account, provided no instructions remain pending or unexecuted and no fees or charges remain payable by the Beneficial Owner to the participant. In such event the Beneficial Owner shall make an application to the participant in the format specified by CDSL in that behalf. The Beneficial Owner may close his account by executing the account closing form if no balances are standing to his credit in the account. In case any balances of securities exist in the account sought to be closed, the account may be closed in one of the following ways:
- 6.9.1.1. by rematerialisation of all existing balances in his account;
- 6.9.1.2. by transfer of all existing balances in his account to one or more of his other account/s held with any other participant/s;
- 6.9.1.3. by rematerialisation of a part of the existing balances in his account and by transferring the rest to one or more of his other account/s with any other participant/s.
- 6.9.2. The participant shall initiate the procedure for transfer of balances or for rematerialisation of securities in the Beneficial Owner's account, as the case may be, within a period not exceeding seven working days from the date of receipt of instructions from the Beneficial Owner in that behalf.

- 6.9.3. The Beneficial Owner's account shall not be closed if there exist any securities in the Beneficial Owner's account which are pledged or hypothecated or the account is unreconciled or if the closure of such account would result in breach or violation of any decree or order or injunction of any court, tribunal or statutory or revenue authority.
- 6.9.4. In the event of the participant ceasing to be a participant, the Beneficial Owner may either seek rematerialisation of his securities or request for the transfer of the securities in its account to an account opened with another participant.

#### 6.10. **Termination**

- 6.10.1. The participant shall be entitled to terminate the agreement with the Beneficial Owner forthwith in the event of the Beneficial Owner:
  - 6.10.1.1. failing to pay the fees or charges as may be mutually agreed upon within a period of thirty days from the date of demand made in that behalf;
  - 6.10.1.2. submitting for dematerialisation any certificates or other documents of title which are forged, fabricated, counterfeit or stolen or have been obtained by forgery or the transfer whereof is restrained or prohibited by any direction, order or decree of any court, tribunal, Central or State Government, SEBI or any statutory or revenue authority or under any covenant or undertaking given to any statutory authority;
  - 6.10.1.3. committing or participating in any fraud or other act of moral turpitude in his dealings with the participant;
  - 6.10.1.4. otherwise misconducting himself in any manner.
- 6.10.2. The participant may also terminate the agreement without assigning any reasons for such termination provided the participant shall have issued at least one month's prior notice in writing to the Beneficial Owner in that behalf.
- 6.10.3. In the event of the participant terminating the agreement, the participant shall call upon the Beneficial Owner to specify whether he desires to have the security balances in his account transferred to his account with another participant or to have the same rematerialised in the manner specified in these Bye Laws and the participant shall accordingly close the account of the Beneficial Owner.
- 6.10.4. Where the agreement is terminated by the participant for

any reason not attributable to the Beneficial Owner, the cost, charges and expenses involved in the transfer of the Beneficial Owner's account to any other participant or rematerialisation of securities in such account shall be borne by the participant.

- 6.10.5. Upon termination of the agreement, if the Beneficial Owner fails to specify the account with any other participant to which the existing balances are to be transferred or if the participant fails to take necessary steps to have the securities in such account transferred to the Beneficial Owner's account with some other participant, CDSL shall nominate any other participant to whom such account shall stand transferred for the time being, provided however that no transaction in respect of securities in such transferred account shall be effected until such time as the Beneficial Owner shall have entered into an agreement with the participant to whom such account shall have been so transferred by CDSL.
- 6.10.6. Notwithstanding termination of the agreement by the participant or closure of his account by the Beneficial Owner, the provisions of the agreement and all mutual rights and obligations arising therefrom shall, except in so far as the same are contrary to or inconsistent with such termination or closure, shall continue to be binding on the parties in respect of all acts, deeds, matters and things done and transactions effected during the period when the agreement was effective.

## **7. SETTLEMENT**

### **7.1. Market Trades Settlement.**

- 7.1.1. In respect of Market Trades, CDSL shall debit and/or credit the account of the Beneficial Owner and/or to such accounts as may be specified in the Operating Instructions for the Clearing Corporation/Settlement Procedures as the case may be, strictly in accordance with the advice issued by the Clearing Corporation on confirmation of payment as provided in these Bye Laws.

### **7.2. Off Market Trades Settlement**

- 7.2.1. In respect of Off Market Trades, CDSL shall debit and/or credit the account of the Beneficial Owner entitled to such credit or debit, as the case may be, after receipt of confirmation from the delivering Beneficial Owner and the receiving Beneficial Owner through their respective participants confirming the details of securities.

### 7.3. **Inter-Depository Settlement**

- 7.3.1. CDSL shall enter into an agreement with every Other Depository *inter alia* providing for inter-depository transactions, settlement schedules and procedures, reconciliation of records, resolutions of disputes, differences or claims between depositories or between participants or beneficial owners in different depositories through arbitration as may be mutually agreed in that behalf. No such agreement shall come into force unless the same shall have been previously approved by SEBI.

## **13. ACCOUNTS / TRANSACTIONS BY BOOK ENTRY**

### 13.1. **Account Opening**

- 13.1.1. CDSL shall keep accounts separately in respect of each Beneficial Owner in respect of each participant.
- 13.1.2. The participant shall maintain separate accounts in respect of each Beneficial Owner and its own account.
- 13.1.3. Any prospective Beneficial Owner who wishes to avail of the services of CDSL will have to open an account with CDSL through a participant.
- 13.1.4. The Beneficial Owner will have to make an application for this purpose to the participant in the format specified in the Operating Instructions issued by CDSL.
- 13.1.5. The Beneficial Owner will be required to enter into an agreement with the participant as per form at Annexure "C" to these Bye Laws.
- 13.1.6. Once the application has been accepted by the participant, the applicant will be issued a Beneficial Owner account number.

### 13.2. **Dematerialisation**

- 13.2.1. Credit of securities into the account of any Beneficial Owner shall be made on dematerialisation of securities held in physical form or on the fresh issue of securities in the dematerialised form or on transfer/transmission of dematerialised securities from an account in any other depository. Nothing contained in this clause shall be applicable to Securities issued by RBI or the Central or State Government.
- 13.2.2. Dematerialisation of securities held in physical form :
- 13.2.2.1. A Beneficial Owner may convert his securities held in physical form into dematerialised form by making an application to the participant in a Dematerialisation Request Form (hereinafter

- referred to as DRF) specified by CDSL along with the relevant security certificates;
- 13.2.2.2. The participant shall forward the DRF so received, along with the relevant security certificates, to the Issuer or its RTA after electronically registering such request with CDSL. Such DRF shall be forwarded by the participant within seven working days of accepting the same from its Beneficial Owner and till such time shall ensure safe custody of the securities in physical form;
  - 13.2.2.3. Every participant shall ensure that the documents representing securities held in physical form including certificates and/or letters of allotment received by the participant for dematerialisation are stamped on the face of the document with the words "Surrendered for dematerialisation". Upon receipt of such documents for dematerialisation, the participant shall cause to be made such other identification mark on the face of the document as may be specified by CDSL;
  - 13.2.2.4. CDSL will electronically intimate, on a daily basis, all dematerialisation requests to the respective Issuer or its RTA;
  - 13.2.2.5. Within 15 days of receipt of the certificate of security from the participant the Issuer/RTA shall confirm to the depository that securities comprised in the said certificate have been listed on the stock exchange or exchanges in the manner specified by SEBI from time to time. The Issuer or its RTA shall verify the validity of the security certificates and/ or letters of allotment as well as the fact that the dematerialisation has been required by the person(s) recorded as member(s) in its Register of Members or Register of Debenture holders or any other register of securities as may be specified by law; Provided however that the provisions of this clause regarding the listing approval shall not be applicable to unlisted securities.
  - 13.2.2.6. After verification as aforesaid, the Issuer or its RTA shall intimate CDSL and thereupon the participant authorising a credit for that security in favour of the Beneficial Owner. On receipt of

- such intimation, CDSL and the participant shall cause the necessary credit entry to be made in the account of the Beneficial Owner concerned;
- 13.2.2.7. No credit of any securities to the account of any Beneficial Owner shall be made unless CDSL has received an intimation from the Issuer or its RTA as set out hereinabove;
- 13.2.2.8. The Issuer or its RTA shall confirm the dematerialisation requests within 21 days from the receipt thereof and state the securities pending confirmation for more than 21 days and record the reason for the delay. The Issuer or its RTA shall, simultaneously with the issuance of the intimation authorising credit to CDSL and the participant, mutilate and cancel the concerned certificate, substitute in its records the name of CDSL as its registered owner and send a certificate to this effect to CDSL and to every Stock exchange with which the security is listed;
- 13.2.2.9. The Issuer or its RTA shall in all cases retain the DRF with it. The Issuer or its RTA shall return to the concerned participant the certificates relating to those securities in respect of which dematerialisation is rejected by the Issuer or its RTA unless otherwise required by any law in force for the time being;
- 13.2.2.10. In all cases where any Issuer or its RTA rejects any request for dematerialisation of any securities, the Issuer or its RTA shall communicate in writing to the concerned participant and the Beneficial Owner, the reason for such rejection.
- 13.2.3. The Issuer or its RTA giving intimation as set out hereinabove, represents and warrants to CDSL that such securities exist, are validly issued and stand in the records of the Issuer or its RTA in the name of the Beneficial Owner who has sought dematerialization in respect of those securities.
- 13.2.4. Subscription to and/or allotment of securities in dematerialised form :
- 13.2.4.1. Upon receipt of intimation by CDSL from any Issuer or its RTA regarding allotment of any securities to a Beneficial Owner in dematerialised form, CDSL shall credit the accounts of the concerned Beneficial Owner;

13.2.4.2. In the event of an intimation being received by CDSL from Issuer or its RTA, for credit of securities to the account of any Beneficial Owner whose identity cannot be established in CDSL, CDSL may reject such request and give details of such rejection for rectification by the Issuer or its RTA to be dealt with as may be deemed fit by the Issuer or its RTA.

**13.3. Dematerialisation (Credit) Of Securities Issued By RBI/ Central/ State Government**

- 13.3.1. A Beneficial Owner may obtain credit of Government Securities in the following manner:
- 13.3.2. By dematerialisation of securities issued by RBI/ Central/ State Government held in physical form.
- 13.3.3. A Beneficial Owner may convert his/its securities issued by RBI/Central/ State Government held in physical form into dematerialized form by making an application to the participant in the Dematerialisation Request Form-Government Securities (DRF-GS) along with relevant security certificate/s and Form of transfer prescribed by RBI or the Central or State Government in accordance with the Operating Instructions specified in this regard. The participant shall not entertain any dematerialisation request for the securities other than from the registered holder of the securities.
- 13.3.4. The participant shall forward the DRF-GS and other documents, if any, along with the security certificate/s to CDSL, after electronically registering such a request. The participant shall forward such DRFGS to CDSL within seven days of its receipt.
- 13.3.5. Every participant shall ensure that the physical certificate(s) is/are not defaced by affixing the stamp "Surrendered for dematerialisation" or mutilated by punching 2 holes. The DP shall ensure that the words "Tendered for cancellation and credit to SGL A/c no.BYSL 0885 of CDSL, Mumbai" are inscribed in the column "Memorandum of Transfer" on the reverse of the certificate.
- 13.3.6. CDSL shall forward the security certificate/s along with the duly filled in Form of transfer, to the RBI and obtain credit of the said Government Securities to its CSGL Account. Thereafter, CDSL shall cause the necessary credit entries to be effected in the account of the concerned Beneficial Owner, in accordance with the Operating Instructions.



- 13.3.7. Where RBI, Central or State Government rejects any request for dematerialisation of Government Security, CDSL shall electronically intimate the participant regarding such rejection within seven days of such rejection.
- 13.3.8. On receipt of rejection of dematerialisation request by RBI, Central or State Government CDSL shall return to the DP the DRF along with the relevant security certificate/s and documents submitted by the participant except that in cases where the certificates and documents are withheld by RBI or the Central or State Government.
- 13.3.9. By transfer or transmission of Securities issued by RBI/ Central/ State Government from other eligible entity to his Beneficiary owner Account of CDSL.
- 13.3.10. A Beneficial Owner or his heirs or nominees may transfer his/its holdings held in SGL account with other eligible entity by making an application to the participant in the Dematerialisation Request Form (DRF-GS) and other relevant documents as prescribed under the Operating Instructions.
- 13.3.11. The participant shall forward the DRF-GS along with the necessary documents to CDSL after electronically registering such a request. The participant shall forward such DRF-GS and other relevant documents to CDSL within seven days of its receipt.
  - 13.3.11.1.1. CDSL shall forward the request to RBI or the Central or State Government along with the documents, as prescribed by RBI or the State or Central Government from time to time.
  - 13.3.11.1.2. CDSL shall cause its CSGL account to be credited with such securities. On receipt of the credit of balances into CSGL Account of CDSL, CDSL shall electronically accept the demat request and cause the necessary credit entry to be made in the account of the Beneficial Owner concerned.
  - 13.3.11.1.3. In case RBI or the Central or State Government rejects/refuses the transfer/ transmission for any reasons CDSL shall return to the DP such documents as specified in the Operating Instructions and communicate in writing to the concerned participant the reason/s for rejection.

**13.3.12. By Subscription/Allotment of Government Securities**

- 13.3.12.1. A Beneficial Owner may subscribe and obtain credit of securities issued by RBI or State or Central government by allotment directly from RBI or State or Central Government in the CSGL Account of CDSL.
- 13.3.12.2. A Beneficial Owner desirous of participating in the auction process of RBI or State or Central Government, may submit the application form along with the subscription amount to CDSL.
- 13.3.12.3. CDSL shall fill the necessary auction forms and submit to RBI/ Central/State Government on the date of auction. RBI shall credit the securities allotted to the CSGL account of CDSL. Thereafter CDSL shall credit the Securities to the account of the concerned Beneficial Owner.
- 13.3.12.4. RBI shall credit the securities allotted to the CSGL account of CDSL. Thereafter CDSL shall credit the Securities to the account of the concerned Beneficial Owner.
- 13.3.12.5. In case RBI State or Central Government rejects in full or in part the application, the funds will remain in the Current Account of CDSL with RBI. CDSL shall remit the same to the Beneficial Owner in a manner as specified in the operating instructions.

**13.4. Account Freezing**

- 13.4.1. Every Beneficial Owner shall have an option to freeze his account either for debits or for credits or for both with the participant so as to render it inoperable. CDSL or the participant shall freeze the account of a Beneficial Owner maintained with it on written instructions received by it or by the participant in that regard from the Beneficial Owner concerned in the form specified by the Operating Instructions.
- 13.4.2. CDSL or the participant shall freeze the account of a Beneficial Owner maintained with it in the manner specified in the orders or directions of any court or tribunal or any Government or SEBI or any other authority made or given under any law for the time being in force.

Provided however that any order of a Court, Tribunal, Government or other competent authority relating to freezing of a beneficial owner account or taking any action in relation to a beneficial owner account which is within the purview of obligations cast on a depository under the Act and/or Regulations, shall be effected by CDSL or participant only on receipt from such authority the Beneficial Owner Identification Number (BOID) or Permanent Account Number (PAN) coupled with specific directions if the same are not set out in such order with sufficient accuracy.

- 13.4.3. An account so frozen shall be activated on instructions in writing from the Beneficial Owner, where it has been frozen at the instance of a Beneficial Owner, and on receipt of instructions from CDSL pursuant to the passing of any order or issuance of instructions vacating, revoking or setting aside the order of freezing by the court, tribunal or authority.

Provided further that on the account being frozen in either event, the participant of such Beneficial Owner shall not effect any debit entry or any such other transaction unless the instructions or order for freezing the account has been withdrawn, revoked, vacated, set aside or modified as aforesaid. However, the participant shall credit benefits to a frozen account.

- 13.4.4. CDSL shall freeze or direct a participant to freeze an account opened by the participant with itself in respect of securities held by the participant in its own name:-

13.4.4.1. in the manner specified in the orders or directions of any court or tribunal or any Government or SEBI or any other authority made or given under any law for the time being in force.

13.4.4.2. if the participant becomes insolvent, bankrupt or in case of a body corporate being wound up.

Provided further that the frozen account may be released on instructions of the authority under whose directions such account was frozen.

### 13.5. **Rematerialisation**

- 13.5.1. A Beneficial Owner may opt out any of his/its security balances with CDSL at any point of time by making an application to that effect to CDSL through its participant. The participant shall ensure that the request for rematerialisation emanates from

the Beneficial Owner and is duly authorised and is properly made. Nothing contained in this clause shall be applicable to Securities where RBI/Central/State Government is the issuer of securities.

- 13.5.2. A participant holding its own securities in CDSL may at any point of time withdraw any of its security balances with CDSL by making an application to that effect to CDSL.
- 13.5.3. The Beneficial Owner shall make the request of withdrawal of the balance in his account in the Rematerialisation Request Form (hereinafter referred to as RRF) as specified in the operating instructions.
- 13.5.4. On receipt of the RRF, the participant shall check whether sufficient unencumbered relevant security balance is available in the account of the Beneficial Owner. If there is a sufficient balance, the participant shall accept the said RRF and block the balance of the relevant security lying in the account of the Beneficial Owner to the extent of the quantity for which rematerialization is sought and electronically intimate the request to CDSL.
- 13.5.5. On receipt of the request referred to in Bye Law 13.5.2 above, CDSL shall block the balance of the relevant securities lying in the account of the participant to the extent of quantity for which rematerialisation is sought.
- 13.5.6. CDSL will intimate electronically all such accepted rematerialisation requests to the Issuer or its RTA on a daily basis.
- 13.5.7. The participant shall forward the RRF to the Issuer or its RTA within two working days of accepting such request from the Beneficial Owner. The Issuer or its RTA after validating the RRF will confirm electronically to CDSL and the participant that the RRF has been accepted. Thereafter the Issuer or its RTA shall despatch the security certificates arising out of the rematerialisation request within a period of thirty days from receipt of such RRF to the Beneficial Owner named in the RRF at the address set out therein taking such precautions as may be necessary against loss in transit.
- 13.5.8. On receipt of such acceptance from the Issuer or its RTA, CDSL shall reduce the security balances to the extent of the rematerialized securities in the respective participant's or the respective Beneficial Owner's account as the case may be.

**13.6. Withdrawal of Securities Issued by RBI/ Central/ State Government from the Depository**

13.6.1. A Beneficial Owner may opt out of the depository in the following manner:

13.6.1.1. Rematerialisation of Securities issued by RBI or the Central or State Government held in his/its BO Account with CDSL:

13.6.1.1.1. A Beneficial Owner holding his/its own Government Securities in CDSL may decide to seek physical certificate by making a request to CDSL in the Rematerialisation Request Form (RRF-GS) in accordance with the Operating Instructions issued in this regard.

13.6.1.1.2. On receipt of the RRF-GS, the participant shall check whether sufficient free relevant security balance is available in the account of the Beneficial Owner. If there is sufficient balance, the participant shall accept the said RRF-GS and block the balance of the relevant security lying in the account of the Beneficial Owner to the extent of the quantity for which rematerialisation is sought and electronically intimate the request to CDSL.

13.6.1.1.3. The Participant shall forward the RRF-GS to CDSL within seven days of its receipt. CDSL shall forward such request to RBI or the Central or State Government, along with the documents, if any, prescribed by RBI or the Central or State Government, from time to time.

13.6.1.1.4. CDSL shall cause its CSGL Account with RBI to be debited and obtain the physical certificate from RBI. Thereafter CDSL shall confirm the acceptance of RRF-GS electronically and forward the physical certificate

to the GAH directly. In case RBI rejects/refuses the rematerialisation request, CDSL shall return to the participant the documents as mentioned in the Operating Instructions and communicate in writing to the concerned participant the reason(s) for such rejection.

13.6.1.2. Transfer or transmission of Securities issued by RBI or the Central or State Government held by the BO in his/its account in CDSL to his/its account maintained with another eligible entity.

13.6.1.2.1. If the request relates to transfer of Securities issued by RBI or the Central or State Government from an account with CDSL to an account with another eligible entity, CDSL shall, on the strength of the letter of authority issued by the BO, execute and forward the form iii to RBI or the Central or State Government or to the other eligible entity with whom the Beneficiary owner wishes to hold the said securities. The eligible entity shall lodge the same with RBI or the Central or State Government. On the securities being debited from CDSL' CSGL Account with RBI or the central or state Government., CDSL shall confirm the acceptance of the RRF electronically to the Participant.

13.6.1.2.2. On acceptance by CDSL the securities shall be debited from the respective Beneficial Owner's account.

13.6.1.2.3. In case RBI, State or Central Government rejects/refuses the transfer/transmission request, CDSL shall return to the participant the documents as mentioned in the Operating Instructions and communicate in writing to the

concerned participant along with the reason(s) for such rejection.

13.6.1.3. Redemption on the date of maturity

13.6.1.3.1. CDSL shall comply with the procedure laid down for redemption by RBI or the Central or State Government within the prescribed time and shall cause the maturity proceeds to be credited to its Current Account with RBI and arrange to distribute the amount to the Beneficial Owners in accordance with the procedure prescribed in the Operating Instructions issued in this regard.

13.7. **Account Closure**

- 13.7.1. A Beneficial Owner wanting to close an account shall make an application to the participant in the format specified to that effect in the Operating Instructions.
- 13.7.2. The Beneficial Owner may close its account if no balances are standing to its credit in the account. In case any balances exist, then the account may be closed in the following manner :
- 13.7.2.1. by rematerialisation of all its existing balances in its account;
- 13.7.2.2. by transferring its security balances to its other account(s) held either with the same participant or with a different participant.
- 13.7.2.3. by rematerialization of a part of its existing balances and by transferring the rest to its other account with the same participant or with a different participant.
- 13.7.3. The participant shall ensure that all pending transactions as well as suspended balances have been adjusted and settled before closing such account. After ensuring that there are no balances in the Beneficial Owner's account, subject to Bye Law 13.7.2, the participant shall execute the request for closure of the Beneficial Owner's account.
- 13.7.4. No account of any Beneficial Owner shall be closed if there exist any securities in the Beneficial Owner's accounts which

are pledged, collateralized or hypothecated or the account is in suspense or if the closure of such account would result in breach or violation of any order or injunction of any court, tribunal or authority.

### 13.8. **Transfer of Balances**

- 13.8.1. No participant shall initiate any debit or credit in the account of any Beneficial Owner except on the instructions of the Beneficial Owner, or on sanction or instructions of CDSL for reasons to be recorded in writing by CDSL.
- 13.8.2. The mode and the form of authorisation shall be specified in the Operating Instructions.
- 13.8.3. Where there is a transfer of security from the account of a Beneficial Owner of one participant to the account of a Beneficial Owner of another participant, both the participants must intimate such instructions for delivery and receipt respectively, to CDSL. After the instructions are matched in CDSL system, such transfer shall be effected by CDSL.
- 13.8.4. In the event of a participant ceasing to be a participant, the Beneficial Owner of that participant may, either request for the rematerialisation of securities or request for the transfer of securities in its account to an account opened with another participant.

### 13.9. **Transmission of Securities**

- 13.9.1. Every Beneficial Owner shall be entitled, whether at the time of opening an account with the participant (Beneficial Owner Account) or at any time thereafter to nominate a person who shall be entitled, upon the death of the Beneficial Owner, to succeed to the securities held in such account. Where any Beneficial Owner Account is opened or stands in the names of two or more persons, the nomination in favour of such nominee shall be made jointly by all such persons. The Beneficial Owner may revoke such nomination or substitute the same with a fresh nomination at any time.
- 13.9.2. Where, in respect of any securities in respect of which a nomination shall have been made by the holder of such security prior to its dematerialisation, any nomination made at the time of opening the Beneficial Owner's Account shall be deemed to constitute a fresh nomination revoking and superseding the previous nomination made in respect of such securities.



- 13.9.3. Where a Beneficial Owner Account stands in the name of more than one person, then, in the event of the death of any of them, notwithstanding any nomination as aforesaid, the securities standing to the credit of such account shall vest in the surviving account holder/s.
- 13.9.4. Where a Beneficial Owner Account stands in the name of a sole person, in the event of the death of the Beneficial Owner, the securities standing to the credit of such account shall vest in the nominee and where no such nomination is made, succession to such securities shall be determined in accordance with law in favour of the heirs or legal representatives of the deceased against production of the necessary representation to the estate of the deceased by way of Probate, Letters of Administration or Succession Certificate, as may be applicable, provided however that where the aggregate market value of the securities as on the date of death of the Beneficial Owner held in such account does not exceed ₹ 1, 00,000/- or such other amount as may be specified by CDSL from time to time, the Board of Directors of CDSL may, in its sole discretion, even in the absence of a legal representation to the estate of the deceased having been obtained, permit the transmission of securities standing to the credit of such account in favour of the heirs or legal representatives or successors, as the case may be, on such terms and conditions as may be specified in the Operating Instructions.
- 13.9.5. The participant shall be entitled to require the person or persons in whose favour the securities are transmitted as aforesaid to execute a fresh agreement in the form at Annexure "C" hereto as also a fresh account opening form to enter his name as a Beneficial Owner.
- 13.9.6. The person or persons in whose favour the securities are transmitted as aforesaid shall also be entitled to the benefit of any security deposit lying with the participant subject to any deductions or adjustments that the participant may be entitled to in accordance with these Bye Laws.
- 13.9.7. In case the Beneficial Owner is declared as lunatic or adjudicated insolvent or otherwise incapable to operate his Beneficial Owner account, CDSL shall, on production of the certified copy of the Order passed by the Competent Court, transmit the security balances lying in such account to any other account as may be ordered. In the event of winding up of the Beneficial Owner by the Court, the securities shall be transmitted to such account as directed

in the Court order to that effect. However, if the Beneficial Owner undergoes a voluntary winding up (not subject to supervision of the Court) the securities shall be transmitted to such account as provided in the resolution passed for such voluntary winding up.

### 13.10. Corporate Actions

- 13.10.1. The Issuer or its RTA shall intimate CDSL of all corporate actions simultaneously with the intimation to stock exchanges in case of listed securities and in case of unlisted securities with prior notice of seven clear days from the date of corporate action.
- 13.10.2. On receiving the intimation as stated above, the details of the holdings of the Beneficial Owners shall be provided electronically by CDSL to the Issuer or its RTA as of the cut off date (relevant to that particular corporate action) for the purpose of distribution of corporate benefits within five working days of the record date or the book closure date.
- 13.10.3. The Issuer or its RTA shall distribute dividend, interest and other monetary benefits and also ineligible securities directly to the Beneficial Owners on the basis of the list provided by CDSL.
- 13.10.4. The Issuer or its RTA may, if the benefits are in the form of securities, distribute such benefits to the Beneficial Owners through CDSL by electronically crediting the account of the concerned Beneficial Owner provided that:
  - 13.10.4.1. the newly created security is an eligible security and has been admitted to CDSL;
  - 13.10.4.2. the concerned Beneficial Owner has consented to receive the newly created securities through CDSL in dematerialised form.
- 13.10.5. In such case, the Issuer or its RTA shall provide allotment details of all Beneficial Owners to CDSL.
- 13.10.6. On receipt of allotment details, CDSL shall cause the necessary credit entries to be made in the account of the Beneficial Owner concerned.
- 13.10.7. Bye Laws 13.10.1 to 13.10.6 shall not apply in case of securities issued by RBI or the central or state Government. Immediately after the due date of payment of interest or the principal amount or any amount in

respect of Government Securities shall be in accordance with the terms of Government Securities.

#### **14. PLEDGE AND HYPOTHECATION**

- 14.1. The pledgor and the pledgee must each have an account in CDSL to create a pledge. However, the pledgor and the pledgee may hold accounts through two different participants.
- 14.2. For the purpose of creation of any pledge or hypothecation of securities, CDSL or a participant shall, on an application by any Beneficial Owner, issue a certificate of holdings to the Beneficial Owner, certifying that the Beneficial Owner is entitled in its name to such number of securities of such Issuer as are proposed to be pledged or hypothecated.
- 14.3. CDSL shall on receipt of an application for the creation of pledge or hypothecation by the Beneficial Owner countersigned by the pledgee, within fifteen days from the date of receipt thereof, create and record the pledge or hypothecation by electronically locking or freezing the Government Securities held in the account of the pledgor and shall issue an intimation of the same to the pledgor and pledgee. Provided that pledge of the Securities issued by RBI or the central or state Government shall be subject to the permission/directions/guidelines/instructions issued by RBI or the Central or State Government in this regard.
- 14.4. CDSL or a participant shall not refuse permission to the pledgor or hypothecator to create a pledge or hypothecation in respect of securities available for pledge or hypothecation unless operations in respect of those securities are restrained or frozen by virtue of any order or direction of any court, tribunal, Central Government, SEBI, RBI or the Central or State Government in case of Securities issued by RBI or the Central or State Government or other competent authority or by CDSL itself and if the CDSL or a participant does not create such pledge or hypothecation as the case may be, it shall intimate the intending pledgor and pledgee of its decisions setting out its reasons for such refusal.
- 14.5. No entry of pledge or hypothecation shall be cancelled by CDSL without the prior concurrence of the pledgee. On receipt of notice of cancellation of the pledge or hypothecation from the pledgee, CDSL shall unlock or defreeze the securities forthwith for which the pledge or hypothecation was created. CDSL on cancellation of the pledge or hypothecation shall inform the pledgor.
- 14.6. Subject to the provisions of the pledge/hypothecation documents, the pledgee/hypothecatee may invoke the pledge or hypothecation,

as the case may be through his participant and on such invocation, CDSL shall register the pledgee/hypothecatee as Beneficial Owner of such securities and shall amend its records accordingly. Thereafter, CDSL shall immediately inform the participants of the pledgor and the pledgee of the change and who in turn shall make necessary changes in their records and inform the pledgor and pledgee respectively.

- 14.7. CDSL shall, before registering the hypothecatee as a Beneficial Owner, obtain the prior concurrence of the hypothecator.

## **15. SECURITIES LENDING**

"Any beneficial owner intending to lend or borrow securities, may do so in the manner laid down under SEBI (Securities Lending Scheme), 1997 or any amendments made thereto from time to time."

## **16. RECONCILIATION, ACCOUNTS AND AUDIT**

### **16.1. Reconciliation**

- 16.1.1. CDSL shall ensure that it has in place at all times such systems and procedures as would enable it to co-ordinate with the participants and issuers or its RTAs and would facilitate reconciliation of records with participants, issuers or its RTAs on a daily basis.
- 16.1.2. Every participant shall reconcile its records with CDSL on a daily basis.
- 16.1.3. CDSL shall intimate the Issuers or its RTA all security balances of the Issuer held in dematerialised form with CDSL at the end of the day and the said balances will be reconciled by the Issuer or its RTA on a daily basis.
- 16.1.4. The Issuer or RTA shall reconcile the records of dematerialised securities with all the securities issued by it, on a daily basis in accordance with these Bye Laws. Provided however that, in case where RBI or the Central or State Government is the issuer of any security, CDSL shall on a daily basis reconcile the records in respect such securities held in the Beneficial Owner accounts in CDSL with the statement of balances as may be provided by RBI or the Central or State Government from time to time.
- 16.1.5. Issuer and/or its RTA shall carry out reconciliation as aforesaid in respect of the securities issued by the Issuer, in accordance with these Bye Laws or Operating Instructions and any communication issued by CDSL in that behalf from time to

time, and shall indemnify and keep indemnified and saved harmless CDSL and its participants of, from and against all claims and demands and all suits, actions, litigations, prosecutions or other proceedings whatsoever (including the costs, charges and expenses thereof) that CDSL and/or its participant/s may be required or called upon to pay, suffer or incur by reason of the Issuer/RTA's failure to effect timely and regular reconciliation in terms of these Bye Laws and in terms of the Agreement with the Issuer/RTA.

- 16.1.6. If there is failure of the reconciliation as specified hereinabove, CDSL may initiate necessary action including suspension of a participant or suspension of transactions in a particular security till the process of reconciliation has been completed.

**16.2. Accounting, Internal Control, Reports And Returns**

- 16.2.1. Each participant shall furnish to CDSL every year, a copy of the audited financial statements and auditors' report and the same shall be furnished not later than six months after the end of the participant's financial year.

Provided that when CDSL is satisfied that circumstances warrant an extension of time to furnish such report, it may grant such extension to the participant.

- 16.2.2. Every participant shall keep accounts and records in respect of the operations of CDSL which shall be distinct and independent from the records and accounts maintained by it in respect of any other activities carried out by the participant.
- 16.2.3. Proper accounts shall be maintained by CDSL as well as the participants in respect of the operations of CDSL in accordance with the software provided by CDSL.
- 16.2.4. The books of accounts and records of the participant relating to the operations of CDSL shall be open for inspection, investigation and audit to the officers or representatives of CDSL.
- 16.2.5. Every participant shall allow persons authorised by CDSL to enter its premises during normal office hours and inspect its records relating to the operations of CDSL.
- 16.2.6. Every participant shall submit periodic returns to CDSL in respect of its business and operations in CDSL in the format specified in the Operating Instructions of CDSL.

- 16.2.7. Every participant shall maintain the following records and documents, namely:
  - 16.2.7.1. records of all the transactions entered into with CDSL and on behalf of every Beneficial Owner.
  - 16.2.7.2. particulars of securities dematerialised and rematerialised on behalf of Beneficial Owner with whom it has entered into an agreement.
  - 16.2.7.3. records of instructions received from Beneficial Owners and copies of statements of account provided to Beneficial Owners, and,
  - 16.2.7.4. records of approvals, notices, entries and cancellation of pledge or hypothecation, as the case may be.
- 16.2.8. Every participant shall intimate CDSL, the place where the records and documents are maintained.
- 16.2.9. Subject to the provisions of any other law, the participant shall preserve records and documents for a minimum period of five years. Provided that the participant shall preserve and maintain the documents, both in physical and electronic form, copies of which have been taken by Central Bureau of Investigation, Police or any other enforcement agency during course of any investigation or enquiry conducted by them till the trial is completed.
- 16.2.10. Every participant shall furnish to CDSL such information relating to various obligations to be performed by him from time to time in such format as may be prescribed by CDSL to enable CDSL to review and monitor his performance and to ascertain the level of compliance with the provisions of the Act, Regulations, these Bye Laws and Operating Instructions issued by CDSL from time to time.
- 16.2.11. CDSL may review and monitor the reports received from participants and issue instructions to participants to rectify the discrepancies, irregularities and noncompliances, if any, within such time limit as may be deemed fit.
- 16.2.12. In case the participant fails to comply with the provisions of the Act, Regulations, these Bye Laws and Operating Instructions, etc., and continues to ignore or disregard the instructions issued by CDSL, the matter may be placed before the Disciplinary Action Committee for such action as it may deem fit. Any action taken by the Disciplinary Action Committee shall be in addition to action taken by SEBI.

**16.3. Audit**

- 16.3.1. Every participant shall ensure that an internal audit shall be conducted in respect of the participant's operations relating to CDSL by a qualified Chartered Accountant in accordance with the provisions of the Chartered Accountants Act, 1949, or by a Company Secretary in practice in accordance with the provisions of the Company Secretaries Act, 1980 at such intervals as may be specified by CDSL from time to time. A copy of Internal Audit report shall be furnished to CDSL.
- 16.3.2. The scope of such audit shall cover the existence, scope and efficiency of the internal control system, compliance with the provisions of the Act, the Regulations, these Bye Laws, Operating Instructions, agreements and systems security and insurance in the office of the participant in respect of the operations of CDSL.
- 16.3.3. In addition, CDSL may, if it feels that it is in the interests of the Beneficial Owners to do so, direct that an audit of the records of the participant shall be conducted by such auditor as may be appointed by CDSL in this regard in so far the records and operations relate to the operations of CDSL. CDSL may empanel qualified Chartered Accountants [or Company Secretaries in practice for the purpose of conducting such audit.
- 16.3.4. Every Issuer shall submit audit report on a quarterly basis starting from 30th September 2003, to the concerned stock exchanges audited by an independent Chartered Accountant/Practicing Company Secretary for the purposes of reconciliation of the total issued capital, listed capital and capital held by the depositories in dematerialised form, the details of changes in share capital during the quarter and the in-principle approval obtained by the Issuer from all the stock exchanges where it is listed in respect of such further issued. Provided however that in case an Issuer has listed its securities on a stock exchange having nationwide trading terminals, obtaining 'in-principle' approval from such stock exchanges for further issue of securities shall be a sufficient compliance with this clause.
  - 16.3.4.1. such audit shall inter alia certify as to whether during the quarter the Register of Members is updated and the dematerialisation requests have been confirmed as required by these Bye Laws. The report shall also specify the demat requests

that remain/remained pending for confirmation for more than 21 days from the date of receipt of request and the reasons for such delay;

- 16.3.4.2. The audit report referred to hereinabove shall be submitted on a quarterly basis (within 30 days of the end of every quarter) to the stock exchange/s, and in case any discrepancies are noted, a copy thereof shall be forwarded to CDSL.

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## **GLOSSARY**

### **Account Freezing**

It is a state wherein a depository account held with a depository participant is suspended for any further transaction.

An account or particular ISIN/number of securities in an account may be frozen either on the request of the account holder or on receipt of an order to that effect from the depository, income-tax authorities or any other competent authority. A frozen account may be reactivated on the request of the account holder where he had requested freezing or, as the case may be, on directions of the authority which ordered freezing of the account. Account freezing may be partial, or complete.

### **Beginning of Day Process**

Depository participants start each business day with a beginning of day (BOD) process. The process is initiated by the depository. The flow of messages between the depository participant module (DPM) and depository module (DM) is established only after BOD process is complete. The participant can carry out their regular operations only after receiving message of successful completion of BOD.

### **Beneficial Owner**

A person whose name is recorded as beneficial owner in respect of an eligible security held with a depository.

In the case of dematerialized securities, a nominee, which may be the depository itself, becomes the registered owner of securities in the records of the issuers. The actual owners of the securities however retain the right to receive all the benefits accruing, including voting rights, in respect of such securities. They are, therefore, referred to as the beneficial owners of the securities.

### **Book-entry Settlement**

The process of accomplishing settlement of trades in securities through a central computerised accounting system which is maintained and operated by depository. No physical movement of securities occurs in this case.

### **Borrower**

A person who has borrowed securities from an approved intermediary under an approved securities lending scheme.

**Business Rules**

Rules formulated by a depository for functioning and operations of the depository and for regulating the functioning and operations of the participants of the depository. These include such manuals, notices, circulars containing the practices, procedures and administrative requirements relating to the operations and functions of the depository system as may be notified by the depository from time to time.

**Bye-Laws**

Bye-Laws formulated by a depository, with previous approval of the Securities and Exchange Board of India and in conformance with the provisions of the Depositories Act, to provide for the matters connected with the operations of the depository and its participants.

**Clearing Account**

A depository account opened by the clearing members of a clearing corporation or clearing house of a stock exchange for the purpose of settlement of trades in eligible securities. Each clearing member is required to open a clearing account with a depository participant and designate it as such. Clearing account of a clearing member consists of three parts; pool account, receipt account and delivery account.

**Clearing Corporation/Clearing House**

A central organisation created to facilitate fast, efficient and economical settlement of trades done at stock exchange. This organisation may be an independent entity (Clearing Corporation) or an internal department of a stock exchange (Clearing House). The members of clearing corporation are called clearing members.

At the end of each trading cycle, trades entered into by all the clearing members are communicated by the stock exchange to the clearing corporation/clearing house. Both sides of trades are verified for consistency, and then all transactions netted out. At the end of each trading cycle, each clearing member receives a list of the net quantity of securities and amount of money to be delivered or received, as the case may be. This way, all transactions are consolidated and settled through a central mechanism, instead of all member firms settling each trade individually amongst themselves.

**Client**

A person who has entered into an agreement with a depository participant, in accordance with the provisions of the Depositories Act and relevant rules and regulations, to avail the services of the depository.

**Collateral**

Security which is given in addition to the principal security against the same liability or obligation.

Security deposits, in the form of cash or otherwise, collected by the depository from its participants with reference to the level of unreconciled balance in case of transfer of its account to other depository or excess credit balance of securities due to any fraud, error or omission on the part of its officers, agents and employees.

**Corporate Action**

Events like payment of interest, dividend, bonus shares, rights or preferential issue of shares, merger, amalgamation, redemption, liquidation, calling of call-money due, etc. affecting the registered owners or beneficial owners of the securities.

**Corporate Benefit**

Benefits received by the beneficial owners/registered owners from the company, where shares are held by them by way of or arising from interest, dividend, bonus shares, rights or preferential issue of shares, merger, amalgamation, redemption, liquidation etc.

**Custodian**

An institution that keeps custody of stock certificates and other assets of a mutual fund, individual, or corporate client.

Any person who carries on or proposes to carry on the business of providing custodial services. Custodial services in this context mean safekeeping of securities of a client and providing services incidental thereto, including the following:

- (i) maintaining account of securities of a client;
- (ii) collecting the benefits or rights accruing to the client in respect of securities;
- (iii) keeping the client informed of the actions taken or to be taken by the issuer of securities having a bearing on the benefits or rights accruing to the client; and
- (iv) maintaining and reconciling records of the services as above.

**Delivery Account**

A sub-account of clearing account of a clearing member used for delivering securities to the clearing corporation/clearing house in case of a net selling position. Securities of selling clients to the extent of net obligation to the clearing corporation/clearing house are transferred from the pool account to the delivery account.

**Delivery versus Payment**

A system of settlement of securities' trade where buyer of securities makes payment for securities purchased simultaneously with the delivery of

securities by the seller. The actual operational form of it depends on the linkage of the payment system and the securities settlement system, and may vary in different securities market systems.

### **Depository Participants**

Agents of depository through whom the depository interfaces with market participants, e.g., brokers, clearing members, and investors. Any person wishing to utilize the services of a depository has to open an account with a depository participant.

### **Derivatives**

Derivatives include (a) a security derived from a debt instrument, share, loan whether secured or unsecured, risk instrument or contract for differences or any other form of security, and (b) a contract which derives its value from the prices, or index of prices, of underlying securities.

### **Eligible Security**

Securities admitted on a depository and eligible for depository services. Only those securities can be dematerialized or be subject-matter of other services of depository which have been admitted as eligible securities by the depository. A depository declares from time to time the list of eligible securities selected on the basis of pre-determined criteria. Only registered owners of the eligible securities can avail services of the depository.

### **End of Day Process**

End of day is for termination of operations for a business day as defined by the depository system. Each business day of the participants ends with reconciliation of positions and review of transactions marked overdue at Depository Module. At the end of each business day depository module sends an end of day (EOD) message to depository participant module. Depository participant module on receipt of this message initiates an internal reconciliation and also generates a reconciliation report to be sent to the depository.

### **Foreign Institutional Investor**

An institution established or incorporated outside India which proposes to make investment in securities in India.

### **Fungibility**

Fungibility refers to absence of unique identification for each unit of security. As a rule, dematerialized securities of a company in a depository system do not have any distinctive numbers. Fungibility is thus an important characteristic of all dematerialised securities.

### **Guardian**

A person having the care of the person of a minor or of his property or of both his person and property. A guardian maybe a natural guardian; or

appointed by the will of the minor's father or mother; or appointed or declared by a Court; or a person empowered to act as such by or under any enactment relating to any Court of Wards.

**Hedging**

Attempt to manage or control risk. Most common techniques employed for hedging involve purchase and sale of future and option contracts in conjunction with a long or short position in the underlying asset, e.g., stock, foreign currency, or commodity.

**Inter-depository Transfer**

Transfer of securities which are admitted for dematerialisation on more than one depository, from an account held in one depository to an account held in another depository.

**Inter-DP Transfer**

Transfer of securities where the parties to the transaction have their depository account with different participants of the same depository.

**Internal Audit**

An independent appraisal function established within an organisation to examine and evaluate its activities as a service to the organisation. The objective of internal auditing is to assist members of the organisation in the effective discharge of their responsibilities. To this end, internal auditing furnishes them with analyses, appraisals, recommendations, counsel, and information concerning the activities reviewed. The audit objective includes promoting effective control at reasonable cost.

**Intra-DP Transfer**

Transfer of securities where the parties to the transaction have their depository account with the same participant of the same depository.

**International Securities Identification Number**

A unique identification number for each security issued in any of the International Standards Organisation (ISO) member countries in accordance with the ISIN Standard (ISO 6166)

**Issuer of Securities / Issuer**

The person issuing securities eligible to be admitted for dealings on depository. It includes the Central and State Governments issuing government securities.

**Market Trades**

Trades which are executed on a participating stock exchange and are cleared and settled through the clearing members of a clearing corporation or

clearing house of a stock exchange. Trades which are negotiated and subsequently reported for being cleared and settled through the clearing corporation are also treated as market trades.

**Member**

Includes a subscriber to the memorandum of a company; every other person who agrees in writing to become a member of the company and whose name is entered in its register of members, and every person holding equity share capital of the company and whose name is entered as beneficial owner in the records of the depository.

**Off-market Trades**

Trades which are not cleared or settled through the clearing corporation or clearing house. These trades, therefore, do not affect the clearing account of a clearing member.

**Off-market Settlement**

The process of settling off-market trades.

**Pledged Securities**

Securities pledged by one person (pledgor) to another person (pledgee) as a security for payment of a debt or performance of a promise. The pledgee has a special lien on the property in the pledged securities with a right to sell the same after notice if the pledgor fails to discharge the debt or perform his promise on the stipulated date.

**Pool Account**

A sub-account of the clearing account of a clearing member that is used for receiving securities from the selling clients, delivering securities to the buying clients, and transferring securities to/from receipt account/delivery account of the clearing members. No transfer of securities can be made from the pool account of a clearing member to the pool account of another clearing member.

**Rematerialisation**

Rematerialisation means the process of withdrawal of securities from the depository by the beneficial owner of such securities. Under this process, the depository account of a beneficial owner is debited for the securities sought to be rematerialized and physical certificates for the equivalent number of securities are issued by the issuer.

**Settlement Cycle**

A system of settling trades in securities, where all trades done during a given period are netted and settled on (or after) a specific settlement day.

**Transfer of Security**

The act of transferring ownership of a security by the registered/beneficial owner of that security to another person.

**Transmission**

The process of transfer of securities, in the event of death of the registered/beneficial owner, to surviving joint holder, or nominee/legal heir/successors/claimants of the deceased owner.

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**ABBREVIATIONS**

ALBM	Automated Lending and Borrowing Mechanism
AS	Accounting Standard
BEP	Branch Empowerment Program (of NSDL)
BO	Beneficial Owner
BOD	Beginning of Day Process
BP	Business Partner (of NSDL)
BSE	Bombay Stock Exchange Ltd.
CA	Corporate Action
CC	Clearing Corporation
CDSL	Central Depository Services (India) Limited
CM	Clearing Member
CNS	Continuous Net Settlement
D&P	Depositories and Participants
DEMAT	Dematerialisation
DIF	Delivery Instruction Form
DM	Depository Module (of NSDL)
DP	Depository Participant
DPM	Depository Participant Module (of NSDL)
DPM(SHR)	Depository Participant Module (Share Registrar and Transfer Agents)
DRF	Dematerialisation Request Form
DRF-GS	Dematerialisation Request Form- Government Securities
DVP	Delivery <i>Versus</i> Payment
EDP	Electronic Data Processing
EOD	End of Day Process
FII	Foreign Institutional Investors
GIRN	General Index Record Number (Income-tax Department)
GISOM	Graphic Interface for System Operation and Management (of NSDL)
HUF	Hindu Undivided Family
ICF	ISIN Conversion Form



IDBI	Industrial Development Bank of India
IPO	Initial Public Offer
ISIN	International Securities Identification Number
LAN	Local Area Network
MICR	Magnetic Ink Character Recognition
NBFC	Non-Banking Financial Company
NCFM	NSE Certification Program in Financial Markets
NRI	Non-resident India
NSCCL	National Securities Clearing Corporation Limited
NSDL	National Securities Depository Limited
NSE	National Stock Exchange of India Ltd.
NSMS	National Stock Market System
OCB	Overseas Corporate Bodies
PAN	Permanent Account Number (Income-tax Department)
PO	Public Offer
PSU	Public Sector Undertaking
PTP	Procedural Training Programs
R&T	Share Registrar and Transfer Agent
RBI	Reserve Bank of India
RDBMS	Relational Database Management System
REMAT	Rematerialisation
REP	Receipt Free of Payment
RIF	Receipt Instruction Form
RRF	Rematerialisation Request Form
RRF-GS	Rematerialisation Request Form—Government Securities
RRN	Rematerialisation Request Registration Number
SBI	State Bank of India
SCR RULES	Securities Contracts (Regulation) Rules, 1956
SCRA	Securities Contracts (Regulation) Act, 1956
SEBI	Securities and Exchange Board of India
SGL	Securities General Ledger (of RBI)

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**NOTES**