**EXECUTIVE PROGRAMME**

**(OLD SYLLABUS)**

**UPDATES FOR**

**CAPITAL MARKETS AND SECURITIES LAWS**

**(Relevant for students appearing in December, 2020 Examination)**

**MODULE 2- PAPER 6**

*Disclaimer-*

*This document has been prepared purely for academic purposes only and it does not necessarily reflect the views of ICSI. Any person wishing to act on the basis of this document should do so only after cross checking with the original source.*

**Students appearing in December 2020 Examination shall note the following:**

*Students are also required to update themselves on all the relevant Notifications, Circulars, Clarifications, etc. issued by the SEBI, RBI & Central Government on or before six months prior to the date of the examination.*

***These Updates are to facilitate the students to acquaint themselves with the amendments in Capital Markets and Securities Laws applicable for December, 2020 Examination. The students are advised to read the updated Study Material (October 2017 Edition) along with these supplements and previously uploaded supplements (uploaded for June 2020 examinations at*** <https://www.icsi.edu/media/webmodules/CMSL_Supplement_Final.pdf> ***on ICSI website.***

***In the event of any doubt, students may write to the Institute for clarifications at*** ***academics@icsi.edu***

**LESSON 3**

**CREDIT RATING & IPO GRADING**

**Strengthening of the rating process in respect of ‘INC’ ratings**

In order to strengthen the rating process of the Credit Rating Agencies with regard to ‘Issuer not cooperating’ (INC) ratings, the directions are being issued.

a. If an issuer has all the outstanding ratings as non-cooperative for more than 6 months, then the CRA shall downgrade the rating assigned to the instrument of such issuer to non-investment grade with INC status. If non-cooperation by the issuer continues for further six months from the date of downgrade to non-investment grade, no CRA shall assign any new ratings to such issuer until the issuer resumes cooperation or the rating is withdrawn.

b. The withdrawal norms for the ratings have been stipulated vide Circular no. SEBI/HO/ MIRSD/DOP2/CIR/P/2018/95 dated June 06, 2018. However, in case of multiple ratings on an instrument (where there is no regulatory mandate for multiple ratings), a CRA may withdraw a rating earlier than stipulated in the aforementioned circular, provided the CRA has:

i. rated the instrument continuously for 3 years or 50 per cent of the tenure of the instrument, whichever is higher; and

ii. received No-objection Certificate (NOC) from 75% of bondholders of the outstanding debt for withdrawal of rating; and

iii. received an undertaking from the issuer that another rating is available on that instrument.

c. At the time of withdrawal, the CRA shall assign a rating to such instrument and issue a press release, as per the format prescribed vide Circular dated November 01, 2016. The Press Release shall also mention the reason(s) for withdrawal of rating.

These provisions shall be applicable with immediate effect except para (a) which shall be effective from July 01, 2020.

**Review of Post-Default Curing Period for Credit Rating Agencies (CRAs)**

Under Credit Rating, there is a post-default curing period of 90 days for the rating to move from default to speculative grade and generally 365 days for default to move to investment grade.

In a few recent cases of defaults that even though the rated entity was able to correct the default within a relatively shorter span of time, the rating could not be upgraded and continued to be under sub-investment grade due to the extant provisions on post-default curing period.

There is a possibility that such cases may increase in the wake of Covid-19 pandemic.

SEBI has felt the need to review the existing policy on post-default curing period with a view to providing some flexibility to Credit Rating Agencies (CRAs) in taking appropriate view in such cases.

* **Changes made by SEBI**

Accordingly, in partial modification to Annexure-A1 of SEBI circular no. SEBI/HO/MIRSD/MIRSD4/CIR/P/2016/119 dated November 1, 2016, the revised policy of the provision

on post-default curing period in this regard is as under:

A. After a default is cured and the payments regularized, a CRA shall generally upgrade the rating from default to non-investment grade after a period of 90 days based on the satisfactory performance by the company during this period. CRAs may deviate from the said period of 90 days on a case to case basis, subject to the CRAs framing a detailed policy in this regard. The said policy shall also be placed on CRA’s website. Cases of deviations from stipulated 90 days, if any, shall be placed before the Ratings Sub-Committee of the board of the CRA, on a half yearly basis, along with the rationale for such deviation.

B. The CRA shall frame a policy in respect of upgrade of default rating to investment grade rating and place it on its website.

C. The policies framed as above may include scenarios like technical defaults, change in management, acquisition by another firm, sizeable inflow of long-term funds or benefits arising out of a regulatory action, etc. which fundamentally alter the credit risk profile of the defaulting firm.

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# LESSON 4

**MARKET INFRASTRUCTURE INSTITUTIONS – STOCK EXCHANGE TRADING MECHANISM**

**Annual System Audit**

Vide SEBI circular no. SEBI/HO/MRD1/ICC1/CIR/P/2020/03 dated January 07, 2020 MIIs are advised to conduct an Annual System Audit as per the framework enclosed as Annexure 1 and Terms of Reference (TOR) enclosed as Annexure 2.

MIIs are also advised to maintain a list of all the relevant SEBI circulars/ directions/ advices, etc. pertaining to technology and compliance thereof, as per format enclosed as Annexure 3 and the same shall be included under the scope of System Audit.

Further, MIIs are advised to submit information with regard to exceptional major Non-Compliances (NCs)/ minor NCs observed in the System Audit as per format enclosed as Annexure 4 and are advised to categorically highlight those observations/NCs/suggestions pointed out in the System Audit (current and previous) which remain open.

The Systems Audit Report including compliance with SEBI circulars/ guidelines and exceptional observation format along with compliance status of previous year observations shall be placed before the Governing Board of the MII and then the report along with the comments of the Management of the MII shall be communicated to SEBI within a month of completion of audit. Further, along with the audit report, MIIs are advised to submit a declaration from the MD / CEO certifying the security and integrity of their IT Systems.

**IPF Trust and Committees at Market Infrastructure Institutions (MIIs)**

1. This has reference to SEBI circulars dated June 07, 2016, February 23, 2017 and January 10, 2019, which, inter alia, provides norms on composition of IPF Trust, and functions and composition of committees at MIIs. Herein, it is clarified that:

a. Norms for composition of IPF Trust, as provided in Clause 3(i)(4) of SEBI circular dated February 23, 2017, are uniformly applicable across Exchanges and Depositories.

b. The functions of IPF Trust, as prescribed in Clause 3(i)(4) of SEBI circular dated February 23, 2017, shall be applicable only to Exchanges.

Depositories shall ensure compliance with these norms within three months from the date of this circular.

2. Additionally, with reference to Gazette notification dated June 04, 2019, amending SECC Regulations, 2018 and SEBI (D&P) Regulations, 2018, inter alia, in respect of names of committees at MIIs, it is clarified that in SEBI circular dated January 10, 2019, read with circular dated February 15, 2019:

a. The name of “Investor grievance redressal committee” shall be read as “Grievance redressal committee”.

b. The name of “Member selection committee” shall be read as “Member committee”.

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**LESSON 5: DEBT MARKET**

**Format for Statement indicating Deviation or Variation in the use of proceeds of issue of listed non-convertible debt securities or listed nonconvertible redeemable preference shares (NCRPs)**

1. As per Regulations 52(7) of the SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 (‘SEBI LODR Regulations’), a listed entity is required to submit to the stock exchange, a statement indicating deviation or variation, if any, in the use of proceeds of issue of non-convertible debt securities or non-convertible redeemable preference shares (NCRPs), from the objects stated in the offer document/Information memorandum.

 2. SEBI vide circular no. CIR/CFD/CMD1/162/2019 dated December 24, 2019, has prescribed a format for the statement indicating deviation or variation in the use of proceeds of issue for entities whose specified securities are listed. It is felt that a similar format be issued for listed entities which have listed its non-convertible debt securities or NCRPs on the stock exchange(s).

3. Accordingly, it has been decided that listed entities which have issued nonconvertible debt securities or NCRPs, shall submit the statement indicating deviation or variation, if any, in the format placed at Annexure-A of circular no. SEBI/HO/DDHS/08/2020 dated January 17, 2020 on half yearly basis.

4. The salient features of the format are as under:

a. Applicability: The format for the statement indicating deviation or variation shall be applicable for funds raised by entities through issuance of non-convertible debt securities or NCRPs, which are listed.

b. Frequency of Disclosure: The statement indicating deviation or variation shall be submitted to the Stock Exchange(s) on half yearly basis within 45 days of end of the half year until such funds are fully utilised or the purpose for which these proceeds were raised has been achieved.

c. Role of the Audit Committee: The statement indicating deviation report shall be placed before the Audit Committee of the listed entity for review on half yearly basis and after such review, the comments of Audit Committee along with the report shall be disclosed/submitted to the stock exchange, as part of the format.

In cases where the listed entity is not required to have an audit committee under the provisions of SEBI LODR Regulations or Companies Act, 2013, the word ‘Audit Committee’ shall be replaced with ‘Board of Directors’.

5. The first such submission shall be made by the listed entities for the half year ended March 31, 2020; subsequent submissions shall be made on half yearly basis as explained above.

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# LESSON 7: MUTUAL FUNDS

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**SECURITIES AND EXCHANGE BOARD OF INDIA (MUTUAL FUNDS) (AMENDMENT) REGULATIONS, 2020**

Regulation 26 (1) of SEBI (Mutual Funds) regulations, 1996 related to “Appointment of custodian” stating that the mutual fund shall appoint a Custodian to carry out the custodial services for the schemes of the fund and sent intimation of the same to the SEBI within 15 days of the appointment of the Custodian. The first proviso to sub-regulation (1) shall be substituted stating that in case of a gold exchange traded fund scheme, the assets of the scheme being gold or gold related instruments may be kept in the custody of a custodian registered with the SEBI.

Formerly, in gold exchange traded fund scheme, the assets of the scheme being gold or gold related instruments may be kept in custody of a bank which is registered as a custodian with the Board.

Whereas, with the said amendment, in gold exchange traded fund scheme, the assets of the scheme being gold or gold related instruments may be kept in custody of a custodian registered with the Board.

Regulation 28(4) related to “Procedure for launching of schemes” shall be substituted stating that the sponsor or asset management company shall invest not less than 1% of the amount which would be raised in the new fund offer or Rs. 50 lakh, whichever is less, and such investment shall not be redeemed unless the scheme is wound up. However the investment by the sponsor or asset management company shall be made in such option of the scheme, as may be specified by the SEBI.

Formerly, sponsor or asset management company could invest in the growth option of the scheme.

Whereas, with the amendment, sponsor or asset management company now can made investment in such scheme as may be specified by the SEBI.

**Investment by the sponsor or asset management company in the scheme.**

1.In terms of Regulation 28 (4) of SEBI (Mutual Funds) (Amendment) Regulations, 2020,the sponsor or asset management company is required to invest not less than one percent of the amount which would be raised in the new fund offer or fifty lakh rupees, whichever is less in such option of the scheme, as may be specified by the Board.

2. In this regard, SEBI has prescribed that the above referred investment shall be made in growth option of the scheme. For such schemes where growth option is not available the investment shall be made in the dividend reinvestment option of the scheme. Further, for such schemes where growth option as well as dividend reinvestment option are not available the investment shall be made in the dividend option of the scheme.

**Rationale behind the Amendment**

This will ensure that the money remains within the scheme, whether in growth or reinvestment option. The idea is that the corpus remains with scheme instead of it being paid out as dividend. This is to fence the unit holders in case there is wind up. This will provide some cushion to the unit holder in such conditions.

**Facilitating transaction in Mutual Fund schemes through the Stock Exchange Infrastructure**

The SEBI allowed investors to directly access infrastructure of the recognised stock exchanges to purchase and redeem mutual fund units directly from Mutual Fund/Asset Management Companies.

Also, the recognised stock exchanges, clearing corporations and depositories may make necessary amendment to their existing byelaws, rules or regulations, wherever required.

Prior to the amendment, SEBI had permitted Mutual Fund Distributors and SEBI Registered Investment Advisors (RIAs) to use infrastructure of the recognised stock exchanges.

Accordingly, in order to further increase the reach of this platform now SEBI has allowed investors to directly access infrastructure of the recognised stock exchanges to purchase and redeem mutual fund units directly from Mutual Fund/Asset Management Companies.

**Listing of Mutual Fund schemes that are in the process of winding up**

The SEBI has allowed listing of mutual fund units of the schemes that are in the process of winding up on the stock exchanges with immediate effect. This will allow Mutual Fund to list their units for those investors who wish to exit. **Exemplary Franklin Templeton Mutual Fund** had decided it would wind up six schemes - Franklin India Low Duration Fund, Franklin India Dynamic Accrual Fund, Franklin India Credit Risk Fund, Franklin India Short Term Income Plan, Franklin India Ultra Short Bond Fund and Franklin India Income Opportunities Fund - citing severe illiquidity and redemption pressures caused by the COVID-19 pandemic. This SEBI circular will allow Franklin Templeton Mutual Fund to list their units for those investors who wish to exit.

* **Changes made by SEBI**

1.Presently, in terms Regulation 32 of SEBI (Mutual Funds) Regulations, 1996 (“MF Regulations”) and SEBI Circular no. SEBI/HO/IMD/DF2/CIR/P/2018/160 dated December 28, 2018, every close-ended scheme and units of segregated portfolio shall be listed on recognized stock exchanges.

2. As per MF Regulations, there are several steps envisaged with respect to winding up of Mutual Fund schemes before the scheme ceases to exist. During this process, such units can be listed and traded on a recognized stock exchange, which may provide an exit to investors.

In terms of Regulation 31B(1) of the MF Regulations, the units of Mutual Fund schemes can be listed in the recognized stock exchange. Accordingly, the units of Mutual Fund schemes which are in the process of winding-up in terms of Regulation 39(2)(a) of MF Regulations, shall be listed on recognized stock exchange, subject to compliance with listing formalities as stipulated by the stock exchange. However, pursuant to listing, trading on stock exchange mechanism will not be mandatory for investors, rather, if they so desire, may avail an optional channel to exit provided to them.

3. Initially, trading in units of such a listed scheme that is under the process of winding up, shall be in dematerialised form.

4.AMCs shall enable transfer of such units which are held in form of Statement of Account (SoA) / unit certificates.

5.Detailed operational modalities for trading and settlement of units of MF schemes that are under the process of winding up, shall be finalized by the stock exchanges where units of such schemes are being listed, in consultation with SEBI. The operational modalities shall include the following:

a. Mechanism for order placement, execution, payment and settlement;

b. Enabling bulk orders to be placed for trading in units;

c. Issue related to suspension of trading, declaration of date for determining the eligibility of unit holders etc. in respect of payments to be made by the AMC as part of the winding up process;

d. Disclosures to be made by AMCs including disclosure of NAV on daily basis and scheme portfolio periodically etc.

6. The stock exchange shall develop a mechanism along with RTA for trading and settlement of such units held in the form of SoA/ Unit Certificate.

7. The AMC, its sponsor, employees of AMC and Trustee shall not be permitted to transact (buy or sell) in the units of such schemes that are under the process of being wound up. The compliance of the same shall be monitored both by the Board of AMC and Trustee.

**Participation of Mutual Funds in Commodity Derivatives Market in India**

1. In partial modification to SEBI Circular No. SEBI/HO/IMD/DF2/CIR/P/2019/65 dated May 21, 2019, paragraph 3(iii) regarding holding of physical goods by mutual fund schemes, is modified as under:

“3(iii) No Mutual fund schemes shall invest in physical goods except in ‘gold’ through Gold ETFs.

However, as mutual fund schemes participating in ETCDs may hold the underlying goods in case of physical settlement of contracts, in that case mutual funds shall dispose of such goods from the books of the scheme, at the earliest, not exceeding the timeline prescribed below: -

a) For Gold and Silver: - 180 days from the date of holding of physical goods,

b) For other goods (except for Gold and Silver):

1) By the immediate next expiry day of the same contract series of the said commodity.

2) However, if Final Expiry Date (FED) of the goods falls before the immediate next expiry day of the same contract series of the said commodity, then within 30 days from the date of holding of physical goods.''

All other conditions in the aforesaid circular shall remain unchanged.

**Brief Analysis**

Currently, investors are not allowed to invest in physical goods excluding gold through Gold Exchange Traded Funds (ETF). However, the market regulator SEBI believes that as mutual fund schemes participating in ETCDs may hold the underlying goods in case of physical settlement of contracts.

If that is the case, the SEBI has asked mutual funds to dispose of such goods from the books of the scheme, at the earliest. A detailed timeline has been given to Mutual funds for carrying disposal.

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# LESSON 8

# ALTERNATIVE INVESTMENT FUND

**Disclosure Standards for Alternative Investment Funds (AIFs)**

1. As a part of SEBI’s initiatives to streamline disclosure standards in the growing AIF space, SEBI through a Consultation Paper dated December 4, 2019 sought public comments on ‘Introduction of Performance Benchmarking’ and ‘Standardization of Private Placement Memorandum (PPM) for AIFs’. Considering inputs from public consultation and deliberations in Alternative Investment Policy Advisory Committee (AIPAC), it has been decided to introduce template(s) for PPM, subject to certain exemptions, and mandatory performance benchmarking for AIFs with provisions for additional customized performance reporting.

A. Template(s) for PPM

2. PPM is a primary document in which all the necessary information about the AIF is disclosed to prospective investors. To ensure that a minimum standard of disclosure is made available in the PPM, it has been decided to mandate a template for the PPM providing certain minimum level of information in a simple and comparable format. AIFs are also permitted to provide additional information in their PPM.

3. Thus, the template for PPM shall have two parts viz.

Part A – section for minimum disclosures, and

Part B – supplementary section to allow full flexibility to the Fund in order to provide any additional information, which it deems fit.

4. The template for PPM of AIFs raising funds under Category I and Category II is provided at Annexure 1 of SEBI circular no. SEBI/HO/IMD/DF6/CIR/P/2020/24 dated February 05, 2020. The template for PPM of AIFs raising funds under Category III is provided at Annexure 2 of SEBI circular no. SEBI/HO/IMD/DF6/CIR/P/2020/24 dated February 05, 2020.

5. Further, in order to ensure compliance with the terms of PPM, it will be mandatory for AIFs to carry out an annual audit of such compliance. The audit shall be carried out by either internal or external auditor/legal professional. However, audit of sections of PPM relating to ‘Risk Factors’, ‘Legal, Regulatory and Tax Considerations’ and ‘Track Record of First Time Managers’ shall be optional.

6. The findings of the audit, along with corrective steps, if any, shall be communicated to the Trustee or Board or Designated Partners of the AIF, Board of the Manager and SEBI.

7. The terms of contribution or subscription agreement (by any name as it may be called), shall be aligned with the terms of the PPM and shall not go beyond the terms of the PPM.

8. The requirements as mentioned at para no. 2 and 5 above shall not apply to the following:

(i) Angel Funds as defined in SEBI (Alternative Investment Funds), Regulations 2012.

(ii) AIFs/Schemes in which each investor commits to a minimum capital contribution of INR 70 crores (USD 10 million or equivalent, in case of capital commitment in non-INR currency) and also provides a waiver to the fund from the requirement of PPM in the SEBI prescribed template and annual audit of terms of PPM, in the manner provided at Annexure 3 of SEBI circular no. SEBI/HO/IMD/DF6/CIR/P/2020/24 dated February 05, 2020.

9. The aforesaid requirements shall come into effect from March 01, 2020.

B. Performance Benchmarking of AIFs

10. Based on the request of the industry, it was considered appropriate that an industry benchmark be developed to compare the performance of AIF industry against other investment avenues, as also global investment opportunities. Accordingly, a proposal for performance benchmarking of AIFs was incorporated in the aforementioned Consultation Paper.

11. As the industry needs the flexibility to showcase its performance based on different criteria and benchmarking of performance of AIFs will help investors in assessing the performance of the AIF industry, it is decided to introduce:

a. Mandatory benchmarking of the performance of AIFs (including Venture Capital Funds) and the AIF industry. b. A framework for facilitating the use of data collected by Benchmarking Agencies to provide customized performance reports

12. In this regard, the following is mandated:

(i) Any association of AIFs (“Association”), which in terms of membership, represents at least 33% of the number of AIFs, may notify one or more Benchmarking Agencies, with whom each AIF shall enter into an agreement for carrying out the benchmarking process.

(ii) The agreement between the Benchmarking Agencies and AIFs shall cover the mode and manner of data reporting, specific data that needs to be reported, terms including confidentiality in the manner in which the data received by the Benchmarking Agencies may be used, etc.

(iii) AIFs, for all their schemes which have completed at least one year from the date of ‘First Close’, shall report all the necessary information including scheme-wise valuation and cash flow data to the Benchmarking Agencies in a timely manner.

(iv) The form and format of reporting shall be mutually decided by the Association and the Benchmarking Agencies.

(v) If an applicant claims a track-record on the basis of India performance of funds incorporated overseas, it shall also provide the data of the investments of the said funds in Indian companies to the Benchmarking Agencies, when they seek registration as AIF.

(vi) In the PPM, as well as in any marketing or promotional or other material, where past performance of the AIF is mentioned, the performance versus benchmark report provided by the benchmarking agencies for such AIF/Scheme shall also be provided.

(vii) In any reporting to the existing investors, if performance of the AIF/Scheme is compared to any benchmark, a copy of the performance versus benchmark report provided by the Benchmarking Agency shall also be provided for such AIF/scheme.

(viii) As a first step, Association will appoint Benchmarking Agencies and thereafter will set timeline for reporting of requisite data to Benchmarking Agencies by all the registered AIFs. In this regard, Association and Benchmarking Agencies will ensure that the first industry benchmark and AIF level performance versus Benchmark Reports are available latest by July 01, 2020, for the performance upto September 30, 2019. Further the Association shall submit a progress report in this regard to SEBI on a monthly basis till the creation of first industry benchmark.

13.The operational guidelines for performance benchmarking are provided at Annexure 4 of SEBI circular no. SEBI/HO/IMD/DF6/CIR/P/2020/24 dated February 05, 2020.

14.In addition to the standard benchmark report prepared by the Benchmarking Agencies, if any AIF seeks customized performance reports in a particular manner, the same may be generated by the Benchmarking Agencies, subject to:

(i) Consent of the AIFs, whose data needs to be considered for generation of the customized performance report.

(ii) Terms and conditions, including fees, decided mutually between the Benchmarking Agencies and the AIF.

15. The requirements as mentioned at para no. 11 to 14 above shall not apply to Angel Funds registered under sub-category of Venture Capital Fund under Category I - AIF.

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# LESSON 12

**FOREIGN PORTFOLIO INVESTORS**

**SEBI (Foreign Portfolio Investors) Regulations, 2014 to be replaced with SEBI (Foreign Portfolio Investors ) Regulations, 2019 .**

# Changes at Page No. 289 – 305 to be referred from the respective heads of amended regulations at the link

<https://www.sebi.gov.in/legal/regulations/dec-2019/securities-and-exchange-board-of-india-foreign-portfolio-investors-regulations-2019-last-amended-on-april-17-2020-_44436.html>

# Common Application Form for Foreign Portfolio Investors

# The Foreign Portfolio Investors (FPIs) seeking FPI registration shall be required to duly fill Common Application Form (CAF) and ‘Annexure to CAF’ and provide supporting documents and applicable fees for SEBI registration and issuance of PAN. The other intermediaries dealing with FPIs may rely on the information in CAF for the purpose of KYC.

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# LESSON 13

**NON- CONVERTIBLE REDEEMABLE PREFERENCE SHARES**

**Format for Statement indicating Deviation or Variation in the use of proceeds of issue of listed non-convertible debt securities or listed nonconvertible redeemable preference shares (NCRPs)**

1. As per Regulations 52(7) of the SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 (‘SEBI LODR Regulations’), a listed entity is required to submit to the stock exchange, a statement indicating deviation or variation, if any, in the use of proceeds of issue of non-convertible debt securities or non-convertible redeemable preference shares (NCRPs), from the objects stated in the offer document/Information memorandum.

 2. SEBI vide circular no. CIR/CFD/CMD1/162/2019 dated December 24, 2019, has prescribed a format for the statement indicating deviation or variation in the use of proceeds of issue for entities whose specified securities are listed. It is felt that a similar format be issued for listed entities which have listed its non-convertible debt securities or NCRPs on the stock exchange(s).

3. Accordingly, it has been decided that listed entities which have issued nonconvertible debt securities or NCRPs, shall submit the statement indicating deviation or variation, if any, in the format placed at Annexure-A of circular no. SEBI/HO/DDHS/08/2020 dated January 17, 2020 on half yearly basis.

4. The salient features of the format are as under:

a. Applicability: The format for the statement indicating deviation or variation shall be applicable for funds raised by entities through issuance of non-convertible debt securities or NCRPs, which are listed.

b. Frequency of Disclosure: The statement indicating deviation or variation shall be submitted to the Stock Exchange(s) on half yearly basis within 45 days of end of the half year until such funds are fully utilised or the purpose for which these proceeds were raised has been achieved.

c. Role of the Audit Committee: The statement indicating deviation report shall be placed before the Audit Committee of the listed entity for review on half yearly basis and after such review, the comments of Audit Committee along with the report shall be disclosed/submitted to the stock exchange, as part of the format.

In cases where the listed entity is not required to have an audit committee under the provisions of SEBI LODR Regulations or Companies Act, 2013, the word ‘Audit Committee’ shall be replaced with ‘Board of Directors’.

5. The first such submission shall be made by the listed entities for the half year ended March 31, 2020; subsequent submissions shall be made on half yearly basis as explained above.

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# LESSON 14

**REAL ESTATE INVESTMENT TRUSTS**

**Guidelines for rights issue of units by a listed Real Estate Investment Trust (REIT)**

SEBI has issued circular details the guidelines in respect of a rights issue of units by a listed REIT. Regulation 2(1)(zq) of SEBI (Real Estate Investment Trusts) Regulations, 2014, defines a rights issue as an offer of units by a listed REIT to the unit holders of the REIT as on the record date fixed for the said purpose.

The SEBI circular no. SEBI/HO/DDHS/DDHS/CIR/P/2020/09 dated January 17, 2020 provides the guidelines in respect of a rights issue of units by a listed REIT. The guidelines prescribed for:-

1. Conditions for issuance

2. Appointment of merchant banker(s) and other intermediaries

3. Draft Letter of Offer and Letter of Offer

4. Application

5. Pricing of Units

6. Timelines

7. Manner of issuance of units

8. Subscription, Allotment and Listing of Units

9. Restriction on further capital issues

The REIT shall file an allotment report with the Board providing details of the allottees and allotment made within 15 days of the issue closing date.

Vide SEBI circular no. SEBI/HO/DDHS/DDHS/CIR/P/2020/35 dated March 13, 2020 the guidelines for rights issue, Preferential Issue and Institutional Placement of units by a listed REIT further amended.

**Encumbrance on units of Real Estate Investment Trusts (REITs)**

1. Regulation 11(3) of SEBI (Real Estate Investment Trusts) Regulations, 2014 (“REIT Regulations”) inter alia provides for mandatory holding of units of REIT by sponsor(s) and sponsor group(s) of REIT.

2. Regulation 23 of the REIT Regulations, 2014 inter alia provides that the manager shall disclose to the designated stock exchanges, unit holders and the Board such information and in the manner as may be specified by the Board.

**A. Encumbrance on units**

3. Entities required to hold units in terms of Regulation 11(3) of the REIT Regulations may create encumbrance on such units during the mandatory holding period wherein encumbrance shall include pledge, lien, negative lien, non-disposal undertaking etc. or any other covenant, transaction, condition or arrangement in the nature of encumbrance.

Provided that the conditions for creation and invocation of encumbrance are also included in the agreement executed for the purpose of creation of such encumbrance.

**B. Conditions for invocation during the mandatory holding period**

4. Such encumbrance shall not be permitted to be invoked during the holding period prescribed in terms of Regulation 11(3) of the REIT Regulations unless the following conditions are satisfied:

a) the person(s) invoking the encumbrance (whether directly or through any trustee or agent acting on its behalf) shall get itself or its nominee to become re-designated sponsor upon compliance with the terms and conditions for re-designation of sponsor as specified under REIT Regulations:

Provided that this condition shall not be applicable in case the person invoking such encumbrance is already a member of sponsor group.

b) The re-designated sponsor shall fulfil the obligations specified for sponsor under REIT Regulations.

**C. Obligation of entity creating encumbrance**

5. Sponsor(s) and sponsor group creating encumbrance on units held by them, shall provide details of the encumbrance to the manager of the REIT within two working days from the date of creation of such encumbrance in the format specified at Annexure -I. Any change in the above information pursuant to release or invocation of encumbrance, or in any other manner, shall also be informed to the manager of the REIT within two working days from the date of such event.

**D. Other Obligations**

6. The REIT shall within two working days from the receipt of details in terms of clause 5 shall disclose such information to every stock exchange where units of the REIT are listed.

**SECURITIES AND EXCHANGE BOARD OF INDIA (REAL ESTATE INVESTMENT TRUSTS) (AMENDMENT) REGULATIONS, 2020**

In the Securities and Exchange Board of India (Real Estate Investment Trusts) Regulations, 2014,-

**I. In regulation 14,**

- a. in sub-regulation (11), the following new proviso shall be inserted after the first proviso, namely,-

“Provided further that the REIT shall not be required to file draft offer document with the Board in case of a fast track rights issue, subject to the fulfillment of the conditions as specified by the Board from time to time.”

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# LESSON 15 INFRASTRUCTURE INVESTMENT TRUSTS

**Guidelines for rights issue of units by a listed Infrastructure Investment Trust (InvIT)**

SEBI has issued circular on the guidelines in respect of a rights issue of units by a listed InvIT. Regulation 2(1)(zw) of SEBI (Infrastructure Investment Trusts) Regulations, 2014, defines a rights issue as an offer of units by a listed InvIT to the unitholders of the InvIT as on the record date fixed for the said purpose.

The SEBI circular no. SEBI/HO/DDHS/DDHS/CIR/P/2020/10 dated January 17, 2020 provides the guidelines in respect of a rights issue of units by a listed InvIT**.** The guidelines prescribed for:-

1. Conditions for issuance

2. Appointment of merchant banker(s) and other intermediaries

3. Draft Letter of Offer and Letter of Offer

4. Application

5. Pricing of Units

6. Timelines

7. Manner of issuance of units

8. Subscription, Allotment and Listing of Units

9. Restriction on further capital issues

The InvIT shall file an allotment report with the Board providing details of the allottees and allotment made within 15 days of the issue closing date.

Vide SEBI circular no. SEBI/HO/DDHS/DDHS/CIR/P/2020/36 dated March 13, 2020 the guidelines for rights issue, Preferential Issue and Institutional Placement of units by a listed InvIT further amended.

**Encumbrance on units of Infrastructure Investment Trusts (InvITs)**

1. Regulation 12 of SEBI (Infrastructure Investment Trusts) Regulations, 2014 (“InvIT Regulations”) inter alia provides for mandatory holding of units of InvIT by sponsor(s) of InvIT.

2. Regulation 23 of the InvIT Regulations, 2014 inter alia provides that the InvIT shall disclose to the designated stock exchanges, unit holders and the Board such information and in the manner as may be specified by the Board.

**A. Encumbrance on units**

3. Entities required to hold units in terms of Regulation 12 of the InvIT Regulations may create encumbrance on such units during the mandatory holding period wherein encumbrance shall include pledge, lien, negative lien, non-disposal undertaking etc. or any other covenant, transaction, condition or arrangement in the nature of encumbrance:

Provided that the conditions for creation and invocation of encumbrance, are also included in the agreement executed for the purpose of creation of such encumbrance:

Provided further that such encumbrance shall not be permitted to be invoked during the holding period prescribed in terms of Regulation 12 of the InvIT Regulations

**B. Obligation of entity creating encumbrance**

4. Sponsor(s) creating encumbrance on the units held by it, shall provide details of the encumbrance to the investment manager of the InvIT within two working days from the date of creation of such encumbrance in the format as specified.

Any change in the above information pursuant to release or invocation of encumbrance, or in any other manner, shall also be informed to the investment manager of the InvIT within two working days from the date of such event.

**C. Other Obligations**

The InvIT shall within two working days from the receipt of details in terms of clause 4 shall disclose such information to every stock exchange where units of the InvIT are listed.

# SECURITIES AND EXCHANGE BOARD OF INDIA (INFRASTRUCTURE INVESTMENT TRUSTS) (AMENDMENT) REGULATIONS, 2020

In the Securities and Exchange Board of India (Infrastructure Investment Trusts) Regulations, 2014,-

**I. In regulation 4,-**

a. in sub-regulation (2), in clause (e), the existing sub-clause (ii) shall be substituted with the following sub-clause, namely,-

“(ii) the investment manager has not less than five years of experience in fund management or advisory services or development in the infrastructure sector or the combined experience of the directors/partners/employees of the investment manager in fund management or advisory services or development in the infrastructure sector is not less than 30 years:

Provided that for computing the combined experience, only the experience of the directors/partners/employees with more than 5 years of experience in fund management or advisory services or development in the infrastructure sector shall be considered.”

**II. In regulation 14,-**

a. in sub-regulation (4), in clause (l), the following new proviso shall be inserted after the first proviso, namely,-

“Provided further that the InvIT shall not be required to file draft offer document with the Board in case of a fast track rights issue, subject to the fulfillment of the conditions as specified by the Board from time to time.”

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26

# LESSON 16

**REGULATORY FRAMEWORK GOVERNING STOCK EXCHANGES**

**Performance review of the commodity derivatives contracts**

1. The primary objective of the commodity derivatives market is to provide credible future price signals to market participants and an effective platform for hedging the price risks. In order to ensure that the derivatives contracts are closely aligned to the physical markets, it is imperative to have a framework to evaluate the performance of these contracts based not merely on statistics regarding delivery and trade volumes but also on the strength of a comprehensive empirical assessment after considering all relevant information, pertaining to the performance of a derivative contract during the relevant period of time.

2. Keeping the above in view and in consultation with the Commodity Derivatives Advisory Committee (CDAC), the following has been decided:

2.1.All recognized stock exchanges shall review the performance of all contracts traded on their exchanges, in commodity derivatives segment, as per the parameters laid down.

2.2.The said performance review shall be consulted with the Product Advisory Committee (PAC) constituted in terms of SEBI Circular no. SEBI/HO/CDMRD/DNPMP/CIR/P/2019/89 dated August 07, 2019 on the subject of “Product Advisory Committee”.

2.3.The said performance review along with the methodology adopted in evaluation, if any, shall be disclosed by the stock exchanges on their website prominently.

2.4.The said performance review shall be conducted on an annual basis for each financial year and shall be disclosed by 30th June of the following financial year.

3. The performance review of the commodity derivatives contracts shall be based on various parameters for each commodity as illustrated in Annexure-I of SEBI circular no. SEBI/HO/CDMRD/DNPMP/CIR/P/2020/21 dated February 04, 2020.

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# LESSON 19

**LISTING AND DELISTING OF SECURITIES**

**Non-compliance with certain provisions of the SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 and the Standard Operating Procedure for suspension and revocation of trading of specified securities.**

SEBI has issued circular specifying the uniform structure for imposing fines as a first resort for non-compliance with certain provisions of the Listing Regulations, freezing of entire shareholding of the promoter and promoter group and the standard operating procedure for suspension of trading in case the non-compliance is continuing and/or repetitive. The stock exchange shall with having regard to the interests of investors and the securities market take action in case of non-compliance with the listing regulations and follow the standard operating procedure for suspension and revocation of suspension of trading of specified securities.

Henceforth, the stock exchanges shall, having regard to the interests of investors and the securities market:

a) Take action in case of non-compliances with the Listing Regulations as specified in Annexure I of the SEBI Circular no. SEBI/HO/CFD/CMD/CIR/P/2020/12 dated January 22, 2020, and.

b) Follow the Standard Operating Procedure (“SOP”) for suspension and revocation of suspension of trading of specified securities as specified in Annexure II of the SEBI Circular no. SEBI/HO/CFD/CMD/CIR/P/2020/12 dated January 22, 2020. Stock Exchanges may deviate from the above, if found necessary, only after recording reasons in writing.

**SECURITIES AND EXCHANGE BOARD OF INDIA (LISTING OBLIGATIONS AND DISCLOSURE REQUIREMENTS) (AMENDMENT) REGULATIONS, 2020**

In the Securities and Exchange Board of India (Listing Obligations and Disclosure Requirements) Regulations, 2015, in regulation 17, in sub-regulation (1B), the number “2020” shall be substituted by the number “2022”.

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# LESSON 20

**ISSUE OF SECURITIES**

**SECURITIES AND EXCHANGE BOARD OF INDIA (ISSUE OF CAPITAL AND DISCLOSURE REQUIREMENTS) (SEVENTH AMENDMENT) REGULATIONS, 2019**

In the Securities and Exchange Board of India (Issue of Capital and Disclosure Requirements) Regulations, 2018,-

I. in regulations 4, 29, 43, 44, 101, 127, 139, 140, 152, 156, 182, 186, 189, 201, 227, 250, 264 and 265, for the word “registering”, wherever it occurs, the word “filing” shall be substituted.

II. in regulations 25 and 123, the words “registering or” shall be omitted

III. in regulations 25 and 123, for the word “registering”, wherever it occurs, the word “filing” shall be substituted.

IV. in regulations 29, 127, 189 and 250, for the word “registered”, the word “filed” shall be substituted.

V. in regulation 246, for the word “registration” the word “filing” shall be substituted.

VI. in Schedule V,- i. in form C, for the word “registering” the word “filing” shall be substituted; ii. in form C, for the word “registered” the word “filed” shall be substituted; iii. in form D, for the word “registered” the word “filed” shall be substituted.

VII. in Schedule VI, Part A,- i. for the word “registering” the word “filing” shall be substituted; ii. in clause (7), in sub-clause (O), in para (d), for the word “registered” the word “filed” shall be substituted; iii. in clause (14), in sub-clause (S), in para (6), for the word “registered” the word “filed” shall be substituted.

VIII. in Schedule XIII, in Part A,-

i. for the word “registering” the word “filing” shall be substituted;

ii. in clause (3), in sub-clause (c) for the word “registered” the word “filed” shall be substituted;

iii. in clause (14), for the word “registered” the word “filed” shall be substituted.

# Streamlining the Process of Rights Issue

1. The Securities and Exchange Board of India (SEBI), has simplified the rights issue process to make it more efficient and effective, by amending the SEBI (Issue of Capital and Disclosure Requirements) Regulations, 2018 (“ICDR Regulations”) and SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 (“LODR Regulations”). Accordingly, following changes are made with respect to the Rights Issue process :

1.1 The period for advance notice to stock exchange(s) under Regulation 42(2) of LODR Regulations has been reduced from at least 7 working days to at least 3 working days (excluding the date of intimation and the record date), for the purpose of rights issue.

1.2. Issuance of newspaper advertisement disclosing date of completion of dispatch and intimation of same to the stock exchanges for dissemination on their websites, as per Regulation 84 (1) of ICDR Regulations, shall be completed by the issuer at least 2 days before the date of opening of the issue.

1.3. Introduction of dematerialized Rights Entitlements (REs) –

1.3.1. In the letter of offer and the abridged letter of offer, the issuer shall disclose the process of credit of REs in the demat account and renunciation thereof.

1.3.2. REs shall be credited to the demat account of eligible shareholders in dematerialized form.

1.3.3. In REs process, the REs with a separate ISIN shall be credited to the demat account of the shareholders before the date of opening of the issue, against the shares held by them as on the record date.

1.3.4. Physical shareholders shall be required to provide their demat account details to Issuer / Registrar to the Issue for credit of REs not later than two working days prior to the issue closing date, such that credit of REs in their demat account takes place at least one day before the issue closing date.

1.4. Trading of dematerialized REs on stock exchange platform –

1.4.1. REs shall be traded on secondary market platform of Stock exchanges, with T+2 rolling settlement, similar to the equity shares. Trading in REs on the secondary market platform of stock exchanges shall commence along with the opening of the issue and shall be closed at least four days prior to the closure of the rights issue.

1.4.2. Investors holding REs in dematerialized mode shall be able to renounce their entitlements by trading on stock exchange platform or off-market transfer. Such trades will be settled by transferring dematerialized REs through depository mechanism, in the same manner as done for all other types of securities

1.5. Payment mode - Application for a rights issue shall be made only through ASBA facility.

1.6. No withdrawal of application shall be permitted by any shareholder after the issue closing date.

2. The detailed procedures on the Rights Issue process are given at Annexure I of the circular no. SEBI/HO/CFD/DIL2/CIR/P/2020/13 dated January 22, 2020 for due compliance. This circular shall be applicable for all rights issues and fast track rights issue where Letter of Offer (LoF) is filed with the stock exchanges on or after February 14, 2020. All entities involved in the Rights Issue process are advised to take necessary steps to ensure compliance with this circular including the procedures stated at Annexure I of this circular.

# General Information Document

# Regulation 34(1) read with Schedule VI, Part E of SEBI (Issue of Capital and Disclosure Requirements) Regulations, 2018, inter alia specify that information which is of generic nature and not specific to the issuer be brought out in the form of a General Information Document (GID) as specified by the Board.

# SEBI Circular dated October 23, 2013, specified the GID. However, the subsequent changes in laws, regulation and processes, necessitated changes in the GID.

# In pursuance of the above, the generic disclosures to be brought out in the General Information Document are enumerated in the Annexure of the SEBI circular no. SEBI/HO/CFD/DIL1/CIR/P/2020/37 dated March 17, 2020.

**SEBI (Issue of Capital and Disclosure Requirements) (Amendment) Regulations, 2020**

SEBI has notified amendments to SEBI (Issue of Capital and Disclosure Requirements) Regulations, 2018 as under:-

In regulation 172, in sub-regulation (3) for the words “six months” the words “two weeks” shall be substituted.

With this amendment the relevant provision of regulation 172(3) under SEBI (Issue of Capital and Disclosure Requirements) Regulations, 2018 shall be read as;-

***Eligibility Conditions for Qualified Institutions Placement***

*172(3) The issuer shall not make any subsequent qualified institutions placement until the expiry of two weeks from the date of the prior qualified institutions placement made pursuant to one or more special resolutions.*

**SEBI (Issue of Capital and Disclosure Requirements) (Second Amendment) Regulations, 2020**

**Rationale behind the amendment**

Due to serious challenges faced by the corporate sector in the wake of developments related to COVID-19, SEBI has decided to provide an additional option to the existing pricing methodology for preferential issuance. In this regards SEBI has notified the Issue of Capital and Disclosure Requirements (Second Amendment) Regulations, 2020, whereby new regulation 164A to the SEBI (Issue of Capital and Disclosure Requirements), 2018 has been inserted which states pricing norms in the preferential issue of shares of companies having stressed assets.

**“Pricing in preferential issue of shares of companies having stressed assets**

1. As per Regulation 164A(1) in case of frequently traded shares, the price of the equity shares to be allotted pursuant to the preferential issue shall not be less than the average of the weekly high and low of the volume-weighted average price of the related equity shares quoted on a recognized stock exchange during the two weeks preceding the relevant date.

2. As per Regulation 164A(2) no allotment of equity shares shall be made unless the issuer company meets any two of the following criteria:

a) the issuer has disclosed all the defaults relating to the payment of interest/ repayment of principal amount on loans from banks / financial institutions/ Systemically Important Non-Deposit taking Non-banking financial companies/ Deposit taking Non-banking financial companies and /or listed or unlisted debt securities in terms of SEBI Circular dated November 21, 2019, and such payment default is continuing for a period of at least 90 calendar days after the occurrence of such default.

b) there is an Inter-creditor agreement in terms of Reserve Bank of India (Prudential Framework for Resolution of Stressed Assets) Directions 2019 dated June 07, 2019.

c) the credit rating of the financial instruments (listed or unlisted), credit instruments/borrowings (listed or unlisted) of the listed company has been downgraded to “D”.

3. The issuer company making the preferential issue shall ensure that the preference issue shall be made to a person not part of the promoter or promoter group as on the date of the board meeting to consider the preferential issue.

4. The resolution for the preferential issue an exemption from the open offer shall provide for the following:

a) The votes cast by the shareholders in the ‘public’ category in favor of the proposal shall be more than the number of votes cast against it. The proposed allottee(s) in the preferential issue that already holds specified securities shall not be included in the category of ‘public’ for this purpose.

Provided that where the company does not have an identifiable promoter; the resolution shall be deemed

 to have been passed if the votes cast in favor are not less than three times the number of the votes, if any, cast against it.

5. The proceeds of such preferential issues shall not be used for any repayment of loans taken from promoters/ promoter group/ group companies. The proposed use of proceeds shall be disclosed in the explanatory statement sent for the purpose of the shareholder resolution.

6. The allotment made shall be locked-in for a period of three years from the last date of trading approval.

# LESSON 21

**REGULATORY FRAMEWORK RELATING TO SECURITIES MARKET INTERMEDIARIES**

**SEBI (Portfolio Managers) Regulations, 1993 to be replaced with SEBI (Portfolio Managers) Regulations, 2020.**

**Changes at Page No. 644 – 652 to be referred from the respective heads of amended regulations at the link.**

<https://www.sebi.gov.in/legal/regulations/jan-2020/securities-and-exchange-board-of-india-portfolio-managers-regulations-2020-last-amended-on-april-17-2020-_45744.html>

**Guidelines for Portfolio Managers**

SEBI, based on the recommendations of a Working Group and inputs from public consultation, reviewed the framework for regulation of Portfolio Managers and the SEBI (Portfolio Managers) Regulations, 2020 (“PMS Regulations”) has been notified on January 16, 2020. In addition to the above, certain changes to the regulatory framework for Portfolio Managers are mandated.

Accordingly, to protect the interest of investors in securities market and to promote the development and to regulate the securities market, SEBI vide its circular no. SEBI/HO/IMD/DFI/CIR/P/2020/26 dated February 13, 2020, has made guidelines for Portfolio Managers with respect to fees and charges, direct on-boarding of clients by Portfolio Managers, nomenclature ‘Investment Approach’, periodic reporting, reporting of performance by Portfolio Managers, disclosure documents, supervision of distributors.

**Operating Guidelines for Investment Advisers in International Financial Services Centre (IFSC)**

The Securities and Exchange Board of India (SEBI) has issued clarifications on Operating Guidelines for Investment Advisers in the International Financial Services Centre (IFSC).

The net worth requirement for registered Investment Adviser in IFSC is revised to UD 700,000.

The SEBI also clarified that existing recognized entities in the International Financial Services Centre (IFSC) can also apply for IA registration without forming a separate company or LLP.

**SEBI develops an online system for detecting misuse of clients’ securities by brokers**

In the recent past years, it has been observed that some brokers have misused clients’ securities received as collateral to meet their own settlement obligation or obligations of other clients.  Some brokers have also misused clients’ securities by pledging them with the banks and NBFCs to raise funds for their own use.

Though the Depositories Act provides for acceptance of client securities as collateral by way of pledge, the collateral of securities is accepted by way of title transfer of securities by brokers.  The client providing collateral in the form of securities needs to transfer his securities in the name of the broker and once the securities move out of the demat account of the client, it is not possible for him to keep a track of use/ misuse of those securities by the broker. A few brokers have been declared defaulter by the Exchange not on account of failure to meet settlement obligation but in failing to

 meet liabilities/ dues to the clients.

SEBI has developed the in – house capabilities to online track the movement of client securities collected by broker as collateral and raise alerts with Exchanges if diversion of clients’ securities is noticed. These reports are being generated by SEBI on a weekly basis and three such mismatch reports have already been forwarded to Exchanges for reconciliation with members.  This system is likely to timely detect the misuse of clients’ securities collected by brokers as collateral or received in pay-out of securities.

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149

# LESSON 23

 **TAKEOVER CODE – AN OVERVIEW**

**SEBI (Substantial Acquisition Of Shares And Takeovers) (Amendment) Regulations, 2020**

SEBI has notified amendments to SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 2011 as under:-

**1.** In regulation 3, in sub-regulation (2), the following new proviso shall be inserted before the existing provisos, namely –

“Provided that the acquisition beyond five per cent but upto ten per cent of the voting rights in the target company shall be permitted for the financial year 2020-21 only in respect of acquisition by a promoter pursuant to preferential issue of equity shares by the target company.”

With this amendment the relevant provision of regulation 3(2) under SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 2011 shall be read as;-

*3(2) - No acquirer, who together with persons acting in concert with him, has acquired and holds in accordance with these regulations shares or voting rights in a target company entitling them to exercise twenty-five per cent or more of the voting rights in the target company but less than the maximum permissible non-public shareholding, shall acquire within any financial year additional shares or voting rights in such target company entitling them to exercise more than five per cent of the voting rights, unless the acquirer makes a public announcement of an open offer for acquiring shares of such target company in accordance with these regulation.*

*Provided that the acquisition beyond five per cent but upto ten per cent of the voting rights in the target company shall be permitted for the financial year 2020-21 only in respect of acquisition by a promoter pursuant to preferential issue of equity shares by the target company*

**Rationale behind this amendment**

As per regulation 3(2) any acquirer along with a person acting in concert, holding 25% stake (or more) in listed entities, were allowed to acquire further 5% stake in any financial year, without triggering open offer obligation under Takeover Code.

SEBI has granted one-time relaxation, allowing acquired and PAC to acquire 10% stake in listed companies, already holding 25% and more stake (but less than 75% stake), without triggering open offer obligation under Takeover Code in Financial Year 2020-21. The increase in limit is permitted only via a preferential issue of equity shares.

**2.** In regulation 6, in sub-regulation (1), the following shall be inserted after the first proviso, namely,-

“The relaxation from the first proviso is granted till March 31, 2021.”

With this amendment the relevant provision of regulation 6(1) under SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 2011 shall be read as;-

*Voluntary Offer*

*6.(1) An acquirer, who together with persons acting in concert with him, holds shares or voting rights in a target company entitling them to exercise twenty-five per cent or more but less than the maximum permissible non-public shareholding, shall be entitled to voluntarily make a public announcement of an open offer for acquiring shares in accordance with these regulations, subject to their aggregate shareholding after completion of the open offer not exceeding the maximum permissible non-public shareholding:*

***Provided*** *that where an acquirer or any person acting in concert with him has acquired shares of the target company in the preceding fifty-two weeks without attracting the obligation to make a public announcement of an open offer, he shall not be eligible to voluntarily make a public announcement of an open offer for acquiring shares under this regulation.*

*The relaxation from the first proviso is granted till March 31, 2021.*

**Rationale behind this amendment**

Earlier, a shareholder holding 25% or more of shares or voting rights was permitted to make a voluntary open offer, but only if he had not acquired any shares of the company via the creeping acquisition route in the preceding 52 weeks. That condition has now been relaxed till March 31, 2021.

**SEBI (Substantial Acquisition of Shares and Takeovers) (Second Amendment) Regulations, 2020**

SEBI has notified amendments to the SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 2011 as under:-

In regulation 10 a new sub-regulation (2B) inserted as:-

“any acquisition of shares or voting rights or control of the target company by way of the preferential issue in compliance with regulation 164A of the Securities and Exchange Board of India (Issue of Capital and Disclosure Requirements) Regulations, 2018 **shall be exempt from the obligation to make an open offer under sub-regulation (1) of regulation 3 and regulation 4.**

Explanation: The exemption from the open offer shall also apply to the target company with infrequently traded shares which is compliant with the provisions of sub-regulations (2), (3), (4), (5),(6), (7) and (8) of regulation 164A of the SEBI (Issue of Capital and Disclosure Requirements) Regulations, 2018. The pricing of such infrequently traded shares shall be in terms of regulation 165 of the SEBI (Issue of Capital and Disclosure Requirements) Regulations, 2018.”

**Rationale behind the amendment**

Listed Companies coming up with preferential issues under Regulations 164(A) of SEBI (Issue of Capital and Disclosure Requirements) Regulations, 2018 will not trigger mandatory open offers to be made by such investors, under Regulations 3 & 4 of SEBI (Substantial Acquisition of Shares and Takeover) Regulations, 2011.

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# LESSON 24

# Investor Protection

**SEBI launches mobile application for lodging investor grievances**

In its efforts to improve the ease of doing business, SEBI launched a Mobile Application for the convenience of investors to lodge their grievances in SEBI Complaints Redress System (SCORES).

The App has all the features of SCORES which is presently available electronically where investors have to lodge their complaints by using internet medium. After mandatory registration on the App, for each grievance lodged, investors will get an acknowledgement via SMS and e-mail on their registered mobile numbers and e-mail ID respectively. Investors can, not only file their grievances but also track the status of their complaint redressal. Investors can also key in reminders for their pending grievances. Tools like FAQs on SCORES for better understanding of the complaint handling process can also be accessed. Connectivity to the SEBI Toll Free Helpline number has been provided from the App for any clarifications/help that investors may require.

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