

- ठ) 1 जून, 2018 को भारतीय प्रतिभूति और विनियम बोर्ड (शेयरों का पर्याप्त अर्जन और अधिग्रहण) (संशोधन) विनियम, 2018, सं. सेबी/एल.ए.डी.-एन.आर.ओ./जी.एन./2018/20, द्वारा
- ड) 11 सितम्बर, 2018 को भारतीय प्रतिभूति और विनियम बोर्ड (शेयरों का पर्याप्त अर्जन और अधिग्रहण) (दूसरा संशोधन) विनियम, 2018, सं. सेबी/एल.ए.डी.-एन.आर.ओ./जी.एन./2018/33, द्वारा
- ढ) 31 दिसम्बर, 2018 को भारतीय प्रतिभूति और विनियम बोर्ड (शेयरों का पर्याप्त अर्जन और अधिग्रहण) (तीसरा संशोधन) विनियम, 2018, सं. सेबी/एल.ए.डी.-एन.आर.ओ./जी.एन./2018/55, द्वारा
- ण) 29 मार्च, 2019 को भारतीय प्रतिभूति और विनियम बोर्ड (शेयरों का पर्याप्त अर्जन और अधिग्रहण) (संशोधन) विनियम, 2019, सं. सेबी/एल.ए.डी.-एन.आर.ओ./जी.एन./2019/06, द्वारा
- त) 29 जुलाई, 2019 को भारतीय प्रतिभूति और विनियम बोर्ड (शेयरों का पर्याप्त अर्जन और अधिग्रहण) (दूसरा संशोधन) विनियम, 2019, सं. सेबी/एल.ए.डी.-एन.आर.ओ./जी.एन./2019/27, द्वारा
- थ) 17 अप्रैल, 2020 को भारतीय प्रतिभूति और विनियम बोर्ड (रेग्युलेटरी सैंडबॉक्स) (संशोधन) विनियम, 2020, सं. सेबी/एल.ए.डी.-एन.आर.ओ./जी.एन./2020/10, द्वारा
- द) 16 जून, 2020 को भारतीय प्रतिभूति और विनियम बोर्ड (शेयरों का पर्याप्त अर्जन और अधिग्रहण) (संशोधन) विनियम, 2020, सं. सेबी/एल.ए.डी.-एन.आर.ओ./जी.एन./2020/14, द्वारा
- ध) 22 जून, 2020 को भारतीय प्रतिभूति और विनियम बोर्ड (शेयरों का पर्याप्त अर्जन और अधिग्रहण) (दूसरा संशोधन) विनियम, 2020, सं. सेबी/एल.ए.डी.-एन.आर.ओ./जी.एन./2020/19, द्वारा
- न) 1 जुलाई, 2020 को भारतीय प्रतिभूति और विनियम बोर्ड (शेयरों का पर्याप्त अर्जन और अधिग्रहण) (तीसरा संशोधन) विनियम, 2020, सं. सेबी/एल.ए.डी.-एन.आर.ओ./जी.एन./2020/20, द्वारा
- प) 5 मई, 2021 को भारतीय प्रतिभूति और विनियम बोर्ड (शेयरों का पर्याप्त अर्जन और अधिग्रहण) (संशोधन) विनियम, 2021, सं. सेबी/एल.ए.डी.-एन.आर.ओ./जी.एन./2021/19, द्वारा
- फ) 3 अगस्त, 2021 को भारतीय प्रतिभूति और विनियम बोर्ड (रेग्युलेटरी सैंडबॉक्स) (संशोधन) विनियम, 2021, सं. सेबी/एल.ए.डी.-एन.आर.ओ./जी.एन./2021/30, द्वारा
- ब) 13 अगस्त, 2021 को भारतीय प्रतिभूति और विनियम बोर्ड (शेयरों का पर्याप्त अर्जन और अधिग्रहण) (दूसरा संशोधन) विनियम, 2021, सं. सेबी/एल.ए.डी.-एन.आर.ओ./जी.एन./2021/46, द्वारा

संशोधित हुए थे।

## SECURITIES AND EXCHANGE BOARD OF INDIA

### NOTIFICATION

Mumbai, the 6th December, 2021

#### SECURITIES AND EXCHANGE BOARD OF INDIA (SUBSTANTIAL ACQUISITION OF SHARES AND TAKEOVERS) (THIRD AMENDMENT) REGULATIONS, 2021

**No. SEBI/LAD-NRO/GN/2021/60.**—In exercise of the powers conferred under section 30 of the Securities and Exchange Board of India Act, 1992 (15 of 1992), the Board hereby makes the following regulations to further amend the Securities and Exchange Board of India (Substantial Acquisition of Shares and Takeovers) Regulations, 2011, namely:-

1. These regulations may be called the Securities and Exchange Board of India (Substantial Acquisition of Shares and Takeovers) (Third Amendment) Regulations, 2021.
2. They shall come into force on the date of their publication in the Official Gazette.
3. In the Securities and Exchange Board of India (Substantial Acquisition of Shares and Takeovers) Regulations, 2011, -

- I. In regulation 2, in sub-regulation (1), after clause (f), the following new clause shall be inserted namely, -

“(fa) ”Delisting Regulations” means the Securities and Exchange Board of India (Delisting of Equity Shares) Regulations, 2021;”

- II. regulation 5A shall be substituted with the following, namely, -

**“Delisting Offer.**

5A. (1) Notwithstanding anything contained in these regulations and the Delisting Regulations, in the event the acquirer makes a public announcement of an open offer for acquiring shares or voting rights or control of a target company in terms of sub-regulation (1) of regulation 3, regulation 4 or regulation 5, the acquirer may seek the delisting of the target company by making a delisting offer in accordance with this regulation:

Provided that the acquirer shall have declared his intention to so delist the target company at the time of making such public announcement of an open offer as well as at the time of making the detailed public statement. A subsequent declaration of delisting for the purpose of the delisting offer proposed to be made under sub-regulation (1) shall not suffice:

Provided further that if the open offer is for an indirect acquisition that is not a deemed direct acquisition under sub-regulation (2) of regulation 5, the declaration of the intent to so delist shall be made initially only in the detailed public statement.

*Explanation 1:* The acquirer shall not, in such target company during the preceding two years from the date of the public announcement made under this regulation, be:

- (i) a promoter / promoter group / person(s) in control, or
- (ii) directly / indirectly associated with the promoter or any person(s) in control, or
- (iii) a person(s) holding more than twenty-five percent shares or voting rights.

*Explanation 2:* The acquirer shall not acquire joint control along with an existing promoter / person in control of the company.

- (2) The delisting offer obligations shall be fulfilled by the acquirer in the following manner:

- (a) the public announcement, the detailed public statement and the letter of offer shall mention the open offer price determined in accordance with regulation 8 of these regulations and the indicative price for delisting:

Provided that if the open offer is for an indirect acquisition that is not a deemed direct acquisition under sub-regulation (2) of regulation 5, the open offer price and indicative price shall be notified by the acquirer at the time of making the detailed public statement and in the letter of offer:

Provided further that the indicative price shall include a suitable premium reflecting the price that the acquirer is willing to pay for the delisting offer with full disclosures of the rationale and justification for the indicative price so determined that can also be revised upwards by the acquirer before the start of the tendering period which shall be duly disclosed to the shareholders.

*Explanation:* Indicative price shall be in accordance with clause (o) of sub-regulation (1) of regulation 2 of the Delisting Regulations and shall not be less than the book value of the company as computed in accordance with the Explanation to sub-regulation (5) of regulation 22 of the Delisting Regulations.

- (b) in case the response to the offer leads to the delisting threshold as provided under regulation 21 of the Delisting Regulations :
  - (i) being met, all shareholders who tender their shares shall be paid the indicative price;

- (ii) not being met, all shareholders who tender their shares shall be paid the open offer price.
- (3) Where a delisting offer made under sub-regulation (1) is not successful:
  - (a) on account of the non-receipt of the prior approval of shareholders in terms of regulation 11 of the Delisting Regulations; or
  - (b) on account of non-receipt of the prior in-principle approval of the relevant stock exchange in terms of regulation 12 of the Delisting Regulations; or
  - (c) the threshold as specified under Regulation 21 of the Delisting Regulations is not achieved; the acquirer shall, within two working days in respect of such failure, make an announcement in all the newspapers in which the detailed public statement was made and comply with all the applicable provisions of these regulations in relation to completing of the open offer.
- (4) Where a competing offer is made in terms of sub-regulation (1) of regulation 20 of these regulations:
  - (a) the acquirer shall not be entitled to delist the target company;
  - (b) the acquirer shall not be liable to pay interest to the shareholders on account of delay due to the competing offer; and
  - (c) the acquirer shall comply with all the applicable provisions of these regulations and make an announcement in this regard, within two working days from the date of public announcement made in terms of sub-regulation (1) of regulation 20, in all the newspapers where the detailed public statement was made.
- (5) The shareholders who have tendered shares in acceptance of the offer made under sub-regulation (1), shall be entitled to withdraw such shares tendered, within five working days from the date of the announcement under sub-regulation (3).
- (6) Where the target company fails to get delisted pursuant to a delisting offer under sub-regulation (1), but which results in the shareholding of the acquirer exceeding the maximum permissible non-public shareholding threshold:
  - (a) the acquirer may undertake a further attempt to delist the target company in accordance with the Delisting Regulations during the period of twelve months from the date of completion of the open offer, subject to the acquirer continuing to exceed the maximum permissible non-public shareholding in the target company.
  - (b) such further delisting attempt shall be successful subject to the following conditions:
    - (i) the delisting threshold as provided under regulation 21 of the Delisting Regulations is met; and
    - (ii) fifty percent of the residual public shareholding is acquired.
  - (c) upon failure of the further delisting attempt, the acquirer shall ensure compliance of the minimum public shareholding requirement of the target company under the Securities Contract (Regulation) Rules, 1957 within a period of twelve months from the end of the period referred to at clause (a).
  - (d) the floor price for a further delisting attempt as referred to at clause (a) shall be higher of the following:
    - (i) the indicative price offered under the first delisting attempt;
    - (ii) the floor price determined under the Delisting Regulations as on the relevant date of the subsequent attempt; and
    - (iii) the book value of the company as computed based on the method stated in explanation to clause (a) under sub-regulation 2.

(7) While undertaking delisting for the first or subsequent attempt, all the provisions of the Delisting Regulations shall mutatis-mutandis be applicable, save as otherwise provided in this regulation.”

III. In regulation 7,

(a) in sub-regulation (4), the following shall be inserted, namely, -

“Provided that if the open offer has been made by an acquirer under sub-regulation (1) of regulation 3, regulation 4 or regulation 5 and the acquirer has stated upfront his intention to retain the listing of the target company in the public announcement and the detailed public statement issued pursuant to an open offer in accordance with these regulations, the acquirer may alternatively undertake a proportionate reduction of the shares or voting rights to be acquired pursuant to the underlying agreement for acquisition/ subscription of shares or voting rights and the purchase of shares so tendered, upon the completion of the open offer process such that the resulting shareholding of the acquirer in the target company does not exceed the maximum permissible non-public shareholding prescribed under the Securities Contract (Regulation) Rules, 1957:

Provided further that in case of a preferential allotment pursuant to a Share Subscription Agreement which may trigger an open offer as envisaged in the above proviso, the Board Resolution and shareholder resolution shall be appropriately worded, so as to include the effective date of allocation/allotment and the quantum thereof.

Notwithstanding anything contained in regulation 170 of the Securities and Exchange Board of India (Issue of Capital and Disclosure Requirements) Regulations, 2018, in case of undertaking a scale down of subscription of shares or voting rights from the agreement, the period of fifteen days for allotment of shares shall be counted from the date of the closure of the tendering period for the open offer.

*Explanation 1:* The acquirer who is undertaking a scale down shall not, in such target company during the preceding two years from the date of the public announcement, be:

- (i) a promoter / promoter group / person(s) in control, or
- (ii) directly / indirectly associated with the promoter or any person(s) in control, or
- (iii) a person(s) holding more than twenty-five percent shares or voting rights.

*Explanation 2:* The acquirer who is undertaking a scale down shall not acquire joint control along with an existing promoter / person in control of the company.”

(b) sub-regulation (5) shall be substituted with the following, namely, -

“(5) Subject to regulation 5A, the acquirer whose shareholding exceeds the maximum permissible non-public shareholding, pursuant to an open offer under these regulations, shall not be eligible to make a voluntary delisting offer under the Delisting Regulations, unless a period of twelve months has elapsed from the date of the completion of the offer period.”

IV. In regulation 8, in sub-regulation (10), in the proviso, the words, symbols and numbers “Securities and Exchange Board of India (Delisting of Equity Shares) Regulations, 2009” shall be substituted with the words “Delisting Regulations”.

V. In regulation 10, in sub-regulation (1), clause (f) shall be substituted with the following, namely,-  
“(f) acquisition pursuant to the provisions of the Delisting Regulations;”

VI. In regulation 15, in sub-regulation (1),

(a) in clause (e), after the words and symbol “consideration;” the word “and” shall be omitted.

(b) in clause (f), the words and symbol “if any.” shall be substituted with the words and symbols “if any; and”.

(c) after clause (f) the following new clause shall be inserted, namely, -

“(g) intention of the acquirer to either delist the target company or retain the listing of the target company. In case of proposed delisting under regulation 5A, the proposed open offer price and indicative price as required under regulation 5A shall be disclosed along with an explanation setting out the rationale and basis for justifying the indicative price.”

## VII. In regulation 22,

- (a) in sub-regulation (1), the first proviso shall be substituted with the following, namely, -  
 “Provided that in case of an offer made under sub-regulation (1) of regulation 20 of these regulations, pursuant to a preferential allotment, the offer shall be completed within the period as provided under sub-regulation (1) of regulation 170 of the Securities and Exchange Board of India (Issue of Capital and Disclosure requirements) Regulations, 2018, subject to the non-obstante clause in sub-regulation (4) of regulation 7 of these regulations.”
- (b) in sub-regulation (1), in the second proviso, the words, symbols and numbers “regulation 3, 4 or 5” shall be substituted with the words, symbols and numbers “sub-regulation (1) of regulation 3, regulation 4 or regulation 5”; and the words, numbers and symbols “sub-regulation (1) regulation 18 of Securities and Exchange Board of India (Delisting of Equity Shares) Regulations, 2009” shall be substituted with the words, symbols and numbers “sub-regulation (4) of regulation 17 of the Delisting Regulations”.
- (c) in sub-regulation (2), the following proviso shall be inserted, namely, -  
 “Provided that in case of proportionate reduction of the shares or voting rights to be acquired in accordance with the relevant provision under sub-regulation (4) of regulation 7, the acquirer shall undertake the completion of the scaled down acquisition of shares or voting rights in the target company.”

AJAY TYAGI, Chairman  
 [ADVT.-III/4/Exty./499/2021-22]

**Footnotes:**

1. The Securities and Exchange Board of India (Substantial Acquisition of Shares and Takeovers) Regulations, 2011 were published in the Gazette of India on 23rd September, 2011 vide No. LAD-NRO/GN/2011 12/24/30181.
2. The Securities and Exchange Board of India (Substantial Acquisition of Shares and Takeovers) Regulations, 2011 were subsequently amended on:
  - a) March 26, 2013 by the Securities and Exchange Board of India (Substantial Acquisition of Shares and Takeovers) (Amendment) Regulations, 2013 vide No. LAD-NRO/GN/2012 13/36/7368.
  - b) October 8, 2013 by the Securities and Exchange Board of India (Listing of Specified Securities on Institutional Trading Platform) Regulations, 2013 vide No. LAD-NRO/GN/2013-14/28/6720.
  - c) May 23, 2014 by the Securities and Exchange Board of India (Payment of Fees) (Amendment) Regulations, 2014 vide Notification No. LAD-NRO/GN/2014-15/03/1089.
  - d) March 24, 2015 by the Securities and Exchange Board of India (Substantial Acquisition of Shares and Takeovers) (Amendment) Regulations, 2015 vide No. LAD-NRO/GN/2014-15/28/542.
  - e) May 5, 2015 by the Securities and Exchange Board of India (Substantial Acquisition of Shares and Takeovers) (Second Amendment) Regulations, 2015 vide No. SEBI/LAD-NRO/OIAE/GN/2015-16/004.
  - f) August 14, 2015 by the Securities and Exchange Board of India (Substantial Acquisition of Shares and Takeovers) (Third Amendment) Regulations, 2015 vide No. SEBI/LAD-NRO/GN/2015-16/009.
  - g) December 22, 2015 by the Securities and Exchange Board of India (Substantial Acquisition of Shares and Takeovers) (Fourth Amendment) Regulations, 2015 vide No. SEBI/LAD-NRO/GN/2015-16/026.
  - h) February 17, 2016 by the Securities and Exchange Board of India (Substantial Acquisition of Shares and Takeovers) (Amendment) Regulations, 2016 vide No. SEBI/LAD-NRO/GN/2015-16/035.

- i) May 25, 2016 by the Securities and Exchange Board of India (Substantial Acquisition of Shares and Takeovers) (Second Amendment) Regulations, 2016 vide No. SEBI/ LAD-NRO/GN/2016-17/002.
- j) March 6, 2017 by the Securities and Exchange Board of India (Payment of Fees and Mode of Payment) (Amendment) Regulations, 2017 vide No. SEBI/LAD/NRO/GN/2016-17/037 read with notification dated March 29, 2017 vide No. SEBI/LAD/NRO/GN/2016-17/38.
- k) August 14, 2017 by the Securities and Exchange Board of India (Substantial Acquisition of Shares and Takeovers) (Amendment) Regulations, 2017 vide No. SEBI/LAD-NRO/GN/2017-18/015.
- l) June 1, 2018 by the Securities and Exchange Board of India (Substantial Acquisition of Shares and Takeovers) (Amendment) Regulations, 2018 vide No. SEBI/LAD-NRO/GN/2018/20.
- m) September 11, 2018 by the Securities and Exchange Board of India (Substantial Acquisition of Shares and Takeovers) (Second Amendment) Regulations, 2018 vide No. SEBI/LAD-NRO/GN/2018/33.
- n) December 31, 2018 by the Securities and Exchange Board of India (Substantial Acquisition of Shares and Takeovers) (Third Amendment) Regulations, 2018 vide No. SEBI/LAD-NRO /GN/ 2018/55.
- o) March 29, 2019 by the Securities and Exchange Board of India (Substantial Acquisition of Shares and Takeovers) (Amendment) Regulations, 2019 vide No. SEBI/LAD-NRO /GN/ 2019/06.
- p) July 29, 2019 by the Securities and Exchange Board of India (Substantial Acquisition of Shares and Takeovers) (Second Amendment) Regulations, 2019 vide No. SEBI/LAD-NRO /GN/ 2019/27.
- q) April 17, 2020 by the Securities and Exchange Board of India (Regulatory Sandbox) (Amendment) Regulations, 2020 vide No. SEBI/LAD-NRO/GN/2020/10.
- r) June 16, 2020 by the Securities and Exchange Board of India (Substantial Acquisition of Shares and Takeovers) (Amendment) Regulations, 2020 vide No. SEBI/LAD-NRO /GN/ 2020/14.
- s) June 22, 2020 by the Securities and Exchange Board of India (Substantial Acquisition of Shares and Takeovers) (Second Amendment) Regulations, 2020 vide No. SEBI/LAD-NRO /GN/ 2020/19.
- t) July 1, 2020 by the Securities and Exchange Board of India (Substantial Acquisition of Shares and Takeovers) (Third Amendment) Regulations, 2020 vide No. SEBI/LAD-NRO /GN/ 2020/20.
- u) May 5, 2021 by the Securities and Exchange Board of India (Substantial Acquisition of Shares and Takeovers) (Amendment) Regulations, 2021 vide No. SEBI/LAD-NRO /GN/ 2021/19.
- v) August 3, 2021 by the Securities and Exchange Board of India (Regulatory Sandbox) (Amendment) Regulations, 2021 vide No. SEBI/LAD-NRO/GN/2021/30.
- w) August 13, 2021 by the Securities and Exchange Board of India (Substantial Acquisition of Shares and Takeovers) (Second Amendment) Regulations, 2021 vide No. SEBI/LAD-NRO / GN/ 2021/46.