

## **Concept Paper on the proposed SEBI ( Delisting of Securities) Regulations, 2006.**

### **Brief History: The Evolution of Delisting Guidelines:**

SEBI in the year 2002 constituted a committee on delisting of shares to inter-alia examine and review the conditions for delisting of securities of companies listed on recognized stock exchanges and suggest norms and procedures in connection therewith. The report of the committee was considered and accepted by SEBI Board. Pursuant to the same, SEBI vide Circular SMD/Policy/CIR – 7/ 2003 dated February 17, 2003 issued the SEBI ( Delisting of Securities) Guidelines, 2003 (Guidelines).

**The Current Guidelines:** The current Guidelines came into force on February 17, 2003. The salient features of these guidelines are brought out below:

1. An exit option to the public shareholders is mandated if the company or its promoters wish to delist its securities from all the stock exchanges in which they are listed.
2. No exit opportunity to be given in case of securities to be delisted from exchanges other than exchanges having nationwide trading terminal (BSE/NSE) if these securities continue to be listed on stock exchanges having Nationwide trading terminals .
3. Price discovery by a method of book building in which the price is determined at the rate at which maximum number of shares are tendered.
4. Eligibility to participate in the book building process extended only to demat shareholders.
5. Option available to the promoters to accept or reject the price determined by the book building process.
6. Settlement of shares after the offer through the stock exchange clearing mechanism.
7. The exit option to be open for a period of 6 months after the closure and acceptance of the offer.

### **Operational issues**

Exit offers were brought out under the provisions of these guidelines, with the first offer being made in January 2004. Many representations and views have been received on the guidelines. Based on such representations from market participants, stock exchanges, industry representatives and common shareholders, it was proposed to look into and suggest changes in the guidelines.

Initial changes proposing more systemic clarity were put up for public comments in April 2004. Comments were received from various quarters and opinions were raised on crucial provisions. In the meantime, some more offers for delisting were made under the Guidelines also bringing along further comments from market participants.

## **Proposed changes**

**In an endeavor to provide a level playing field to the participants in the securities market while not compromising on the protection of investor interests, it has been decided to bring about certain changes in the Guidelines that are felt necessary. The following paragraphs elucidate the nature of changes proposed and the rationale behind the proposed changes:**

1. **Conversion of guidelines into Regulations:** The provisions governing Delisting of Securities were initially envisaged only as a guiding framework to provide for an exit option at a determined price with the Stock Exchange overseeing the compliance. Consistent with the need to have appropriate instrumentalities, it has been decided to convert the Guidelines into Regulations.
2. **Book Building Process:** The following was noticed in the scrutiny of the current process of price discovery through book building:
  - a. Disproportionate Powers with public share holders holding major chunk
  - b. Possibility of frivolous Bids to destabilize the delisting offer
  - c. Freedom to promoters to reject the price discovered.
  - d. Revision of bids leading to cartelization in the discovery of price.

It was increasingly felt that the book building process, which was to aid in the determination of a fair exit value for the shareholders, was not fully achieving the said objective and the perceived investor friendliness of the price discovery mechanism was not necessarily translating into genuine discovery of price.

**Thus emanated a need to look for an alternate pricing mechanism and hence the current proposal which is as under:**

It is proposed that the price would be the higher of –

- a) The fixed price which would be the floor price plus a premium of 25%. The floor price would be determined in terms of Regulation 20 of SEBI (Substantial Acquisition of Shares and Takeover) Regulations.
- b) Fair value determined by an accredited rating agency plus a premium of 25%.  
The relevant provision is annexed at Regulation 14(4) of the proposed draft Regulations.

Further, the reference date for calculating the floor price is the date of Public Announcement currently. This was felt to be resulting in fluctuation in price from the time the decision to delist is taken by the Board and the Public Announcement. In order to correct this anomaly, it is proposed that the reference date for calculation of floor price would be

the date on which the stock exchanges are notified of the Board meeting in which the delisting proposal was considered. This is in line with the provisions of the Takeover Regulations.

- Absence of Minimum Subscription:** The success of the exit offer under the current provisions of the Guidelines is linked to the crossing of the continuous listing requirement. This gave rise to a situation that securities were bound to get delisted if the public shareholding reduced from the levels required to be maintained for the purpose of continuous listing.

While the rationale of mandating levels for continuous listing is based on good corporate governance, providing the same levels as eligibility for delisting was resulting in delisting of securities even while a huge residue of public shareholding remains, which is primarily against investor interest.

World over, in matters of delisting, it is a known fact that a 10% level of public shareholding was considered as a prudent level for squeeze out option to the promoters whenever companies wanted to delist.

Thus as a measure to arrive at plausible levels of public shareholding, below which companies wishing to delist their securities could do so, it is proposed to introduce a level of 10% of public shareholding (in consonance with international practices) as the breach percentage level for eligibility for delisting. The relevant proposal is as under :

**Minimum subscription to be introduced: Success of the offer depends on a minimum subscription resulting in the public shareholding reducing below 10% or 4%. Thus, the promoter holding should breach the 90% level or 96% level as the case may be depending on the categorization of the company under Clause 40A.**

- The exit offer to be available for all shares :** With the dispensing of the book building mechanism which was available only for shares in demat mode, the anomaly arising therein has been addressed. Now shareholders holding shares in both physical and demat mode can participate in the offer.
- Settlement procedure:** In order to simplify the settlement system, it is now proposed that the settlement would be made separately through the Merchant Bankers and Registrars as is being currently done in open offers under SEBI (SAST) Regulations.
- Time Lines for various activities:** Current guidelines give only the skeletal framework for delisting the securities. It was felt that many procedural aspects needed clarification. Hence, in order to bring about clarity and provide for a structured framework, certain time lines have been proposed in the Regulations.

7. **Reporting Requirements:** The extant Guidelines do not prescribe any kind of reporting by the Stock Exchanges. Though it is intended to keep the monitoring aspect purely with the Stock Exchange, certain overall reporting requirements are being prescribed which were felt necessary for the smooth working of these Regulations.

The above points highlight the major changes that are being proposed in the proposed Delisting Regulations. The above is an attempt to provide the basic reasoning behind the proposed changes. Though a consultative process has been adopted and the views of market participants have been considered in preparing the Draft Regulations, the revised draft regulations and the rationale for revising them are once again placed in public domain for comments and suggestions.

The full text of the proposed Regulations is annexed herewith for Public Comments. Comments may be sent on or before 14<sup>th</sup> December 2006 to the address mentioned below **AND** through email to [harinib@sebi.gov.in](mailto:harinib@sebi.gov.in) and [amitk@sebi.gov.in](mailto:amitk@sebi.gov.in) .

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**THE GAZETTE OF INDIA  
EXTRAORDINARY  
PART –II – SECTION 3 – SUB SECTION (ii)  
PUBLISHED BY AUTHORITY  
SECURITIES AND EXCHANGE BOARD OF INDIA  
NOTIFICATION  
Mumbai, the                      December, 2006**

**SECURITIES AND EXCHANGE BOARD OF INDIA  
(DELISTING OF SECURITIES) REGULATIONS, 2006**

S.O. No.            (E). In exercise of the powers conferred by section 30, read with sub-section (1) of section 11 and sub-section (2) of section 11A, of the Securities and Exchange Board of India Act, 1992 (15 of 1992) and section 31 of the Securities Contracts (Regulation) Act, 1956 the Board hereby makes the following Regulations, namely: -

**CHAPTER I**  
**PRELIMINARY**

- Short title and commencement.** 1 (1) These Regulations may be called the Securities and Exchange Board of India (Delisting of Securities) Regulations, 2006.
- (2) They shall come into force on the date of their publication in the Official Gazette.
- Definitions.** 2 (1) In these Regulations, unless the context otherwise requires, -
- (a) 'Act' means the Securities and Exchange Board of India Act, 1992 (15 of 1992);
  - (b) 'Board' means the Securities and Exchange Board of India established under section 3 of the Act;
  - (c) 'company' means a company registered under the Companies Act, 1956 (1 of 1956) and includes a body corporate or corporation established under a Central Act, State Act or Provincial Act for the time being in force, whose securities are listed on a recognized stock exchange;
  - (d) 'compulsory delisting' means delisting of securities of a company by a stock exchange under Chapter V of these regulations;
  - (e) 'public holders of securities' means the holders of the relevant securities, who are not promoters;
  - (f) 'stock exchange' means any stock exchange which has been granted recognition under section 4 of the Securities Contracts (Regulation) Act, 1956;

(g) 'Schedule' means a Schedule appended to these Regulations;

(h) 'voluntary delisting' means delisting of securities of a company voluntarily under Chapter III of these regulations;

(i) 'working days' shall mean the working days of the Board.

(2) The words 'control', 'person acting in concert', 'promoter' and 'public shareholding' shall have the meanings respectively assigned to them under the Securities and Exchange Board of India (Substantial Acquisition of Shares and Takeovers) Regulations, 1997 as amended from time to time.

(3) Words and expressions not defined in these Regulations, but defined in or under the Act or the Securities Contracts (Regulation) Act, 1956 or the Companies Act, 1956, or any statutory modification or re-enactment thereof, shall have the same meaning as have been assigned to them by or under those enactments.

## **CHAPTER II**

### **DELISTING OF SECURITIES**

- Applicability.**      **3** (1) These Regulations shall apply to delisting of securities of a company from the stock exchange or stock exchanges where such securities are listed.
- (2) Nothing in these regulations shall apply to any delisting made pursuant to a scheme sanctioned by the Board for Industrial and Financial Reconstruction under the Sick Industrial Companies (Special Provisions) Act, 1985 or

by the National Company Law Tribunal under section 424D of the Companies Act, 1956, if such scheme –

- (a) gives specific exemption from compliance with these regulations; or
- (b) lays down any specific procedure to complete the delisting; or
- (c) provides an exit option to the existing public holders of securities at a specified rate.

**Delisting not permissible in certain circumstances and conditions for delisting.**

- 4
- (1) No company shall apply for and no stock exchange shall grant delisting of securities of a company, pursuant to a buyback of securities by the company or pursuant to a preferential allotment made by the company.
  - (2) No company shall apply for and no stock exchange shall grant delisting of any class of securities of a company unless a period of three years has elapsed since the listing of that class of securities on any stock exchange.
  - (3) No company shall apply for and no stock exchange shall grant delisting of securities where any instruments issued by the company, which are convertible into the same class of securities that are sought to be delisted, are outstanding.
  - (4) Nothing contained in sub-regulations (2) and (3) shall apply to delisting of securities falling under clause (a) of regulation 6.
  - (5) No company shall apply for and no stock exchange shall grant delisting of convertible securities.
  - (6) Notwithstanding delisting of any class of securities of a company, any other class of its securities may continue to be listed on the stock exchange.
  - (7) Delisting of securities shall also be subject to the



**CHAPTER III**  
**VOLUNTARY DELISTING**

**Delisting from all stock exchanges.**      5    Subject to the provisions of these regulations the securities of a company may be delisted from all the stock exchanges where they are listed or from the stock exchange where they are listed:

*Provided that* all public holders of the securities which are sought to be delisted are given an exit opportunity in accordance with Chapter IV.

**Delisting from only some of the stock exchanges.**      6    The securities of a company may be delisted from one or more stock exchanges where those are listed and continue to remain listed on one or more other stock exchanges subject to the provisions of these Regulations and subject to the following -

(a) if after the proposed delisting from any one or more stock exchanges, the securities of a company would remain listed on any stock exchange which has nationwide trading terminals, no exit opportunity needs to be given to the shareholders; and,

(b) if after the proposed delisting, the securities of a company would not remain listed on any stock exchange having nation wide trading terminals, exit opportunity shall be given to all the public holders of the securities sought to be delisted in accordance with Chapter IV.

*Explanation:* For the purposes of this regulation, 'stock

exchange having nation wide trading terminals' means the Stock Exchange, Mumbai, the National Stock Exchange or any other stock exchange which may be specified by the Board in this regard.

**Procedure for delisting where no exit opportunity is required.**

- 7 (1) In a case falling under clause (a) of regulation 6 –
- (a) the proposed delisting shall be approved by a resolution of the Board of Directors of the company in its meeting;
  - (b) the company shall give a public notice of the proposed delisting in at least one English national daily with wide circulation, one Hindi national daily with wide circulation and one regional language newspaper of the region where the concerned stock exchanges are located;
  - (c) the company shall make an application to the concerned stock exchange for delisting its securities; and,
  - (d) the fact of delisting shall be disclosed in the first annual report prepared after the delisting.
- (2) The public notice made under clause (b) of sub-regulation (1) shall mention the names of the stock exchange from which the securities of the company are intended to be delisted, the reasons for such delisting and the fact of continuation of listing of securities on stock exchange having nation wide trading terminals.
- (3) Every application for delisting made under clause (c) of sub-regulation (1) shall be accompanied by an audit report as required under regulation 55A of the Securities and Exchange Board of India (Depositories and Participants) Regulations, 1996 covering a period of six

months prior to the date of the application.

(4) An application for delisting made under clause (c) of sub-regulation (1) shall be disposed of by the stock exchange within a period not exceeding thirty days from the receipt by it of such application complete in all respects.

(5) If any application for delisting is not disposed of within the period stipulated under sub-regulation (4) the concerned stock exchange shall report it to the Board with reasons for such delay.

**Conditions and procedure for delisting where exit opportunity is required.**

8 (1) Any company desirous of delisting its securities under the provisions of Chapter III shall, except in a case falling under clause (a) of regulation 6 -

(a) obtain the prior approval of the Board of Directors of the company in its meeting;

(b) obtain the prior approval of shareholders or security holders of the company by special resolution passed through postal ballot;

(c) make an application to the concerned stock exchange for in-principle approval of the proposed delisting in the form specified by the stock exchange; and

(d) within one year of passing the special resolution, make the final application to the concerned stock exchange in the form specified by the stock exchange:

*Provided that* any special resolution authorizing voluntary delisting passed before the commencement of these Regulations shall be deemed to be valid for a period of one year from the date of its passing or for a period of six months from the commencement of these

regulations, whichever is later.

- (2) No delisting shall, except in a case falling under clause (a) of regulation 6, be made –
  - (a) unless the company whose securities are sought to be delisted complies with the minimum public shareholding requirements of twenty five percent or ten percent, as the case may be, applicable to it under the listing agreement; or
  - (b) if successful completion of the exit opportunity may result in change in control over the company whose securities are sought to be delisted:
- (3) Nothing contained in clause (a) of sub-regulation (2) shall apply to a case where the company was not in compliance with the minimum shareholding requirements as specified in the listing agreement as on the first day of May, 2006 and either –
  - (a) its paid up capital was less than one crore rupees as on that date; or
  - (b) its paid up capital was more than one crore rupees but less than three crore rupees as on that date and the number of its shareholders was three hundred or less as on that date.
- (4) An application seeking in-principle approval for delisting under clause (c) of sub-regulation (1) shall be accompanied by an audit report as required under regulation 55A of the Securities and Exchange Board of India (Depositories and Participants) Regulations, 1996 in respect of the securities sought to be delisted covering a period of six months prior to the date of the application.
- (5) An application seeking in-principle approval for delisting

shall be disposed of by the stock exchange within a period not exceeding thirty days from the receipt by it of such application complete in all respects.

- (6) While considering an application seeking in-principle approval for delisting, the stock exchange shall not unfairly withhold such application, but may require the company to satisfy it as to -
  - (a) the resolution of investor grievances by the company;
  - (b) payment of listing fees to that stock exchange;
  - (c) the compliance with any condition of the listing agreement with that stock exchange having a material bearing on the interests of its securities holders;
  - (d) any litigation or action pending against the company pertaining to its activities in the securities market or any other matter having a material bearing on the interests of its securities holders.
- (7) If any application seeking in-principle approval for delisting is not disposed of within the period stipulated under sub-regulation (5), the concerned stock exchange shall report it to the Board with reasons for such delay.
- (8) A final application for delisting made under clause (d) of sub-regulation (1) shall be accompanied with a true copy of the special resolution passed under clause (a) of sub-regulation (1) and with such proof of having given the exit opportunity in accordance with the provisions of Chapter IV, as the stock exchange may require.



(6) No promoter shall appoint any person as a merchant banker under sub-regulation (4) if such a person is an associate of the promoter.

- Escrow account.** 11
- (1) The promoter shall open an escrow account before making the public announcement under regulation 10 and deposit therein the total offer price payable, assuming full acceptance of the offer by public holders.
  - (2) The escrow account shall consist of either cash deposited with a scheduled commercial bank, or a bank guarantee in favour of the merchant banker, or a combination of both.
  - (3) Where the escrow account consists of deposit with a scheduled commercial bank, the promoter shall, while opening the account, empower the merchant banker to instruct the bank to issue a banker's cheque or demand draft for the amount lying to the credit of the escrow account, for the purposes mentioned in these regulations and the amount in such deposit, if any, remaining after full payment of consideration for securities tendered in the offer and those tendered under sub-regulation (1) of regulation 19 shall be released to the company after expiry of the period referred to in that sub-regulation.
  - (4) Where the escrow account consists of a bank guarantee, such bank guarantee shall be valid till expiry of the period referred to in sub-regulation (1) of regulation 19.

**Letter of offer.** 12 (1) The promoter shall despatch the letter of offer to the

public holders of securities, not later than forty five days from the date of the public announcement, so as to reach them at least five days before the opening of the offer period.

- (2) The letter of offer shall be sent under sub-regulation (1) to all public holders of securities of the company whose names appear on the register of the company or depository as on the specified date fixed under sub-regulation (3) of regulation 10.
- (3) The letter of offer shall contain all the disclosures made in the public announcement and such other disclosures as may be necessary for the security holders to take an informed decision.

**Offer period.**

- 13 (1) The date of opening of the offer shall not be later than the fifty five days from the date of the public announcement.
- (2) The offer shall remain open for a period of twenty days, during which the public holders of securities may tender their securities.

**Offer price.**

- 14 (1) The floor price shall not be less than, -
  - (a) where the securities are frequently traded in all the stock exchanges where they are listed, the average of the weekly high and low of the closing prices of the securities of the company as quoted on the stock exchange, where the securities of the company are most frequently traded, during the twenty six weeks or two weeks preceding the date on which the stock exchanges were notified of the Board meeting in which the delisting proposal was



considered, whichever is higher;

(b) where the securities of the company are infrequently traded in all the stock exchanges where they are listed, the floor price determined in accordance with the provisions of sub-regulation (2); or,

(c) where the securities are frequently traded in some stock exchanges and infrequently traded in some other stock exchanges where they are listed, the highest of the prices arrived at in accordance with clauses (a) and (b) above.

Explanation: For the purposes of this sub-regulation, securities shall be deemed to be infrequently traded, if on the stock exchange, the annualized trading turnover in that security during the preceding six calendar months prior to month in which the stock exchanges were notified of the Board meeting in which the delisting proposal was considered, is less than five percent (by number of securities) of the total listed securities of that class and the term 'frequently traded' shall be construed accordingly.

(2) For the purposes of clause (b) of sub-regulation (1), the floor price shall be determined by the promoter and the merchant banker taking into account the following factors:

(a) the highest price paid by the promoter for acquisitions including by way of allotment in a public or rights issue or preferential allotment, if any, during the twenty six weeks period prior to the date on which the stock exchanges were notified of the Board meeting in which the delisting

proposal was considered and upto the date of the public announcement; and,

(b) other parameters including return on net worth, book value of the shares of the company, earning per share, price earning multiple vis-à-vis the industry average.

(3) Notwithstanding anything contained in sub-regulations (1) and (2), where the securities proposed to be delisted are debt instruments, the floor price shall not be less than the aggregate of the face value and interest accrued thereon.

(4) The offer price shall be not less than the higher of the following –

(a) the floor price determined under sub-regulation (1), as increased by a premium of twenty five per cent thereof;

(b) the fair value of the securities determined by a registered credit rating agency, as increased by a premium of twenty five per cent thereof.

**Special  
depositories  
account and  
handling of  
securities  
tendered.**

**15** (1) Before opening of the offer, the merchant banker shall open a special depositories account with a depository.

(2) Where securities tendered by a public holder are in dematerialized form –

(a) they shall be deposited by the merchant banker in the special depositories account; and

(b) they shall not be transferred to the promoter unless the offer is found to be successful in terms of regulation 16 and the full consideration in respect thereof is paid to the public holders in

compliance with regulation 18.

(3) Where securities tendered by a public holder are in physical form –

(a) they shall be forwarded to the share transfer agents of the company to verify the genuineness of the security certificate and transfer deed and where they are found to be not genuine, a communication of rejection shall be sent to the public holder within ten working days of closure of the offer; and

(b) the securities which are verified to be genuine shall be in the custody of the merchant banker and shall not be registered in the name of the promoter, unless the offer is found to be successful in terms of regulation 16 and the full consideration in respect thereof is paid to the public holders in compliance with regulation 18.

**Minimum number of securities to be acquired.**

**16** (1) Where the offer results in acceptance of a fewer number of securities than the total securities for which the offer was made and the promoters shareholding (together with holdings of persons acting in concert with him) is not likely to exceed ninety per cent of the total outstanding shares of that class, the offer shall fail and no securities shall be acquired pursuant to such offer:

*Provided that* in a case where the company whose shares are proposed to be delisted has an applicable minimum public shareholding level of ten per cent under the listing agreement, sub-regulation (1) shall apply as if for the words “ninety per cent” the words

“ninety six per cent” were substituted.

(2) Where the offer fails –

(a) the securities tendered by a holder shall be returned to the holder within seven days of closure of the offer period;

(b) no final application shall be made to the exchange for delisting of the securities; and

(c) the escrow account opened under regulation 11 shall be closed.

**Procedure after  
closure of offer.**

17 (1) Within seven days of closure of the offer, the promoter and the merchant banker shall make a public announcement in the same newspapers in which the public announcement under sub-regulation (1) of regulation 10 was made, as to whether the minimum number of securities required for success of the offer under regulation 16 were tendered.

(2) Where the offer succeeds in terms of regulation 16, the securities tendered shall be deemed to be acquired by the promoter unless a communication of rejection, upon verification of the securities tendered (in respect of securities in the physical form), is made within ten working days of closure of the offer and the promoter shall be liable to pay the consideration for such securities.

**Payment of  
consideration.**

18 (1) The promoter shall immediately on ascertaining success of the offer, open a special account with a banker to an issue registered with the Board and transfer thereto, the entire amount due and payable as consideration in respect of securities tendered in

the offer, from the escrow account.

- (2) All the security holders whose securities are verified to be genuine shall be paid the final price stated in the public announcement within ten working days from the closure of the offer.

**Right of remaining security-holders to tender securities.**

- 19 (1) Where, pursuant to acceptance of securities tendered in terms of these regulations, the securities are delisted, any remaining public holder of such securities may tender his securities to the promoter upto a period of six months from the date of delisting and, in such a case, the promoter shall accept the securities tendered at the same final price at which the earlier acceptance of securities was made.
- (2) The payment of consideration for securities accepted under sub-regulation (1) shall be made out of the balance amount lying in the escrow account.
- (3) The amount in the escrow account or the bank guarantee shall not be released to the promoter unless all payments are made in respect of securities tendered under sub-regulation (1).

**CHAPTER V  
COMPULSORY DELISTING**

**Compulsory delisting by a stock exchange.**

- 20 (1) A stock exchange may, by order, delist any securities of a company on any ground prescribed in the rules made under section 21A of the Securities Contracts (Regulation) Act, 1956 (42 of 1956):

*Provided that* no order shall be made under this sub-

regulation unless the company concerned has been given a reasonable opportunity of being heard.

- (2) The decision regarding compulsory delisting shall be taken by a panel to be constituted by the stock exchange consisting of –
  - (a) two directors of the stock exchange (one of whom shall be a public representative);
  - (b) one director nominated by the Board; and
  - (c) the Executive Director or Secretary of the stock exchange.
- (3) Before making an order under sub-regulation (1), the stock exchange shall give a notice in one English national daily with wide circulation and one regional language newspaper of the region where the concerned stock exchange is located, of the proposed delisting, giving a time period of not less than fifteen days from the notice, within which representations may be made to the stock exchange by any person who may be aggrieved by the proposed delisting and shall also display such notice on its trading systems and website.
- (4) The stock exchange shall while passing any order under sub-regulation (1), consider the representations, if any, made by the company as also any representations received in response to the notice given under sub-regulation (3).
- (5) The provisions of Chapter IV shall not be applicable to a compulsory delisting made by a stock exchange under this Chapter.
- (6) Where the stock exchange passes an order under sub-regulation (1), it shall forthwith publish a notice

in one English national daily with wide circulation and one regional language newspaper of the region where the concerned stock exchange is located, of the fact of such delisting, disclosing therein the name and address of the company, the fair value of the delisted securities determined under sub-regulation (1) of regulation 21 and names and addresses of the promoters of the company who would be liable under sub-regulation (3) of regulation 21.

- (7) A listed company or any investor aggrieved by an order passed under sub-regulation (1), may file an appeal against the order before the Securities Appellate Tribunal under sub-section (2) of section 21A of the Securities Contracts (Regulation) Act, 1956 (42 of 1956), in accordance with that Act and the rules made thereunder.

**Rights of public holders of securities in case of a compulsory delisting**

- 21** (1) Where securities of a company are delisted by a stock exchange under this Chapter, the stock exchange shall appoint an independent valuer or valuers who shall determine the fair value of the delisted securities.
- (2) The stock exchange shall form a panel of expert valuers from whom the valuer or valuers shall be appointed for purposes of sub-regulation (1).
- (3) The promoter of the company shall acquire delisted securities of the public holders by paying them the value determined by the valuer, subject to the option of the public holders of the securities to retain the securities.

*Explanation:* For the purposes of sub-regulation (1), -

(a) 'valuer' means a Chartered Accountant or merchant banker appointed to determine the value of the delisted securities;

(b) value of the delisted securities shall be determined by the valuer having regard to the factors mentioned in regulation 14;

## CHAPTER VI

### POWERS OF THE BOARD

**Power of the Board to issue clarifications.**      **22** In order to remove any difficulties in the application or interpretation of these regulations, the Board may issue clarifications and guidelines in the form of circulars.

**Directions by the Board.**      **23** Without prejudice to provisions of the Act and those of the Securities Contracts (Regulation) Act, 1956 (42 of 1956), the Board may in case of any violation of these regulations and in the interests of the investors and the securities market give such directions as it deems fit including -

(a) suspending the trading of any security in an exchange;

(b) restraining persons from accessing the securities market and prohibiting any person associated with securities market from buying, selling or dealing in securities;

(c) directing the Board of Directors or promoters of a company whose securities are delisted consequent upon withdrawal of recognition or non-renewal of recognition granted to a stock exchange, for getting



its securities listed on any such stock exchange as may be specified by the Board; or

(d) directing a stock exchange to delist any securities of any company:

*Provided that* the Board shall, either before or after passing such orders, give an opportunity of hearing to the company or other concerned person.

## **CHAPTER VIII MISCELLANEOUS**

### **Listing of delisted securities**

- 24** (1) No application for listing shall be made in respect of any securities which have been delisted under these regulations or under any other law for the time being in force for a period of seven years from the delisting.
- (2) While considering an application for listing of any securities which had been delisted, the stock exchange shall have due regard to facts and circumstances under which delisting was made.
- (3) Except to the extent provided in sub-regulation (2), an application for listing made under sub-regulation (1) shall be deemed to be an application for fresh listing of such securities.
- (4) Nothing in this regulation shall apply to a listing of delisted securities pursuant to orders of a court or tribunal.

### **Stock exchanges to monitor compliance with**

- 25** The respective stock exchanges shall comply with and monitor compliance with the provisions of these Regulations and shall report to the Board any instance

**Regulations.**

of non-compliance which comes to their notice.

**Repeal and savings**

**26** (1) The Securities and Exchange Board of India (Delisting of Securities) Guidelines, 2003 shall stand rescinded upon the commencement of these regulations:

*Provided that* such rescission shall not affect the previous operation of the said guidelines or anything done or omitted to be done or suffered therein or any right, privilege, obligation or liability acquired or accrued or incurred thereunder.

(2) Notwithstanding such rescission -

(a) any application for delisting made by any company and pending with any stock exchange prior to such rescission shall be deemed to have been made under the corresponding provisions of these regulations;

(b) any exit opportunity already completed, or initiated and pending completion, under the Guidelines, prior to such rescission shall be completed and the application for delisting made pursuant thereto shall be dealt with as if those Guidelines were not rescinded.

**SCHEDULE**  
**[See regulation 9(2)]**  
**CONTENTS OF THE PUBLIC ANNOUNCEMENT**

1. The floor price and the offer price and how they were reached.
2. The dates of opening and closing of the offer.
3. The name of the exchange or exchanges from which the securities are sought to be delisted.
4. The manner in which the offer can be accepted by the security holder.
5. Disclosure regarding the minimum acceptance condition for success of the offer.
6. The name of the merchant banker and other intermediaries together with the helpline number for the security holders.
7. The specified date fixed as per sub-regulation (3) of regulation 9.
8. The object of the proposed delisting.
9. The proposed time table from opening of the offer till the payment of consideration / return of securities.
10. Details of the escrow account and the amount deposited therein.
11. Listing details and stock market data:
  - (a) high, low and average market prices of the securities of the company during the preceding three years;
  - (b) monthly high and low prices for the six months preceding the date of the public announcement; and,
  - (c) the volume of securities traded in each month during the six months preceding the date of public announcement.
12. Present capital structure and shareholding pattern.
13. The likely post-delisting shareholding pattern.
14. The aggregate shareholding of the promoter together with persons acting in concert and of the directors of the promoter where the promoter is a company and of persons who are in control of the company.
15. Name of compliance officer of the company.

16. It should be signed and dated by the promoter. Where the promoter is a company, the public announcement shall be dated and signed on behalf of the Board of Directors of the company by its manager or secretary, if any, and by not less than two directors of the company, one of whom shall be a managing director where there is one.

F.No. SEBI/LAD/DOP/30/ /2006

**M. DAMODARAN**  
**CHAIRMAN**  
**SECURITIES AND EXCHANGE BOARD OF INDIA**