

Securities and Exchange Board of India (Central Database of Market Participants) Regulations, 2003

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SCHEDULE 1 :- The Schedule

Securities and Exchange Board of India (Central Database of Market Participants) Regulations, 2003

In exercise of the powers conferred by section 30 read with sections 11, 11 A, 12 and 19 of the Securities and Exchange Board of India Act, 1992 (15 of 1992), the Board hereby makes the following Regulations, namely:

CHAPTER 1

Preliminary

1. Short title and commencement :-

(1) These Regulations may be called the Securities and Exchange Board of India (Central Database of Market Participants) Regulations, 2003.

(2) These Regulations shall come into force on such date as may be specified by the Board:

Provided that different dates may be specified for different provisions of these regulations and any reference in any such provision to the commencement of these regulations shall be construed as a reference to the commencement of that provision.

2. Definitions :-

(1) In these Regulations, unless the context otherwise requires:

(a) 'Act' means the Securities and Exchange Board of India Act, 1992;

(b) 'associate' in relation to an intermediary or a listed company means a person:

(i) who, directly or indirectly, by himself or in combination with his relatives exercises control over the intermediary or listed company or has a holding of not less than 15% in the paid up equity capital of the intermediary or the listed company;

(ii) in respect of whom the intermediary or listed company directly or indirectly exercises control;

(iii) whose director or partner is also a director or partner of the intermediary or listed company.

Explanation, For the purposes of this clause

(i) 'control' means control as defined in clause (c) of sub-regulation (1) of regulation 2 of the Securities and Exchange Board of India (Substantial Acquisition of Shares and Takeovers) Regulations, 1997;

(ii) 'director' does not include a nominee director;

(iii) 'person' means a natural person, a company registered under the Companies Act, 1956, a body corporate, a partnership concern, a trust or society registered under the Societies Registration Act, 1860 or any other legal entity;

(c) 'Board' means the Securities and Exchange Board of India established under section 3 of the Act;

(d) 'Central Database' means the electronic representation and storage of information that may be created and maintained by a Designated Service Provider in respect of the persons who have been allotted unique identification numbers under these regulations;

(e) 'Central Listing Authority' means the Central Listing Authority established under regulation 3 of the Securities and Exchange Board of India (Central Listing Authority) Regulations, 2003;

(f) 'designated employee' in relation to a listed company or a company which intends to get its securities listed means a designated employee within the meaning of the Explanation to clause 1.2 of Part A of Schedule I to the Securities and Exchange Board of India (Prohibition of Insider Trading) Regulations, 1992;

(g) 'Designated Service Provider' means a person so designated by the Board to create and maintain the Central Database on such terms and conditions as may be agreed to between him and the Board and to perform such other functions under these regulations as may be delegated to him by the Board;

(h) 'intermediary' means any person who is registered with the Board under section 12 of the Act, but does not include Foreign Institutional Investors and Foreign Venture Capital Investors;

(i) 'investor' means an investor in securities and includes a Foreign

Institutional Investor and a Foreign Venture Capital Investor;

(j) 'listed company' means a company whose securities are listed on a recognised stock exchange and includes a public company which intends to get its securities listed on a recognized stock exchange;

(l) 'market participants' means intermediaries, other entities, investors, listed companies and companies which intend to get their securities listed;

(m) 'other entity' means any recognised stock exchange, clearing corporation, approved intermediary under the Securities Lending Scheme, 1997, investor associations and includes any other person granted recognition by the Board, any person required to obtain any license or approval from any self-regulatory organization and any other person associated with the securities market in any manner as may be notified by the Board in the Official Gazette;

(n) 'promoter' means

(1) any person or persons who are directly or indirectly in control of the company; or

(2) any person or persons named as "promoters" in the offer document or in the shareholding pattern disclosed by the Company under provisions of the Listing Agreement, whichever is later; and includes,

(A) where such person is an individual,

(i) his spouse, parents, brothers, sisters or children;

(ii) any company in which 26% or more of the equity share capital is held by him or by the persons mentioned in sub-clause (i) or any firm or Hindu Undivided Family in which he or any of the persons mentioned in sub-clause (i) is a partner or member;

(iii) any company in which a company specified in sub-clause (ii) above, holds more than 50% of the equity share capital;

(iv) any firm in which the aggregate of his holding and the holdings of the persons mentioned in sub-clause (i) is more than 50%;

(B) where such person is a body corporate,

(i) a subsidiary or holding company of that body corporate;

(ii) any company in which the said body corporate holds 26% or

more of the equity share capital;

(iii) any company which holds 26% or more of the equity share capital of the said body corporate;

(iv) any company in which a group of persons holds 26% or more of the equity share capital and that group of persons also holds 26% or more of the equity share capital in such body corporate;

(v) any other body corporate under the same management as the said body corporate within the meaning of sub-section (}B) of section 370 of the Companies Act, 1956.

Explanation I. A Financial Institution, Scheduled Commercial Bank, Foreign Institutional Investor or Mutual fund shall not be deemed to be a promoter merely by virtue of its shareholding.

Explanation II. A Financial Institution, Scheduled Commercial Bank or Foreign Institutional Investor shall be deemed to be a promoter of its subsidiary and of the mutual funds sponsored by it;

(o) 'recognised stock exchange' means a stock exchange which has been granted recognition under section 4 of the Securities Contracts (Regulation) Act, 1956;

(p) 'relative' in relation to a natural person means his spouse, dependant children and dependant parents;

(q) 'related persons' means the persons specified in clause (b) of sub-regulation (1) of regulation 4 in respect of an intermediary or other entity and persons specified in clause (b) of regulation 5 in respect of a listed company or a company intending to get its securities listed;

(r) 'Schedule' means a Schedule annexed to these regulations;

(s) 'securities' means securities as defined in clause (h) of the Securities Contracts (Regulation) Act, 1956;

(t) 'self-regulatory organization' means an organization of intermediaries which is representing a particular segment of the securities market and formed as a company duly recognized with the Board and excludes a stock exchange;

(u) 'specified intermediaries' mean such intermediaries or other entities as may be specified by the Board in the notification published in the Official Gazette pursuant to sub-regulation (1) of

regulation 4;

(v) 'specified investors' mean such investors as may be specified by the Board in the notification published in the Official Gazette pursuant to sub-regulation (1) to regulation 6;

(w) 'specified listed company' means such companies as may be specified by the Board in the notification published in the Official Gazette pursuant to regulation 5; and,

(x) 'unique identification number' means the identification number generated in the Central Database for and allotted to each applicant under these regulations.

(2)

(a) Words and expressions used and not defined in these regulations shall have the meanings, if any, respectively assigned to them under the Act.

(b) Words and expressions used and not defined either in these regulations or the Act, shall have the meanings, if any, respectively assigned to them in the Securities Contracts (Regulation) Act, 1956 or any statutory modification or re-enactment thereof.

(c) Words and expressions used and not defined either in these regulations, or in the Act or in the Securities Contracts (Regulation) Act, 1956 shall have the meanings, if any, respectively assigned to them under the Companies Act, 1956, or any statutory modification or re-enactment thereof.

CHAPTER 2

Requirement of obtaining unique identification numbers

3. Unique Identification Numbers for market participants :-

Every specified intermediary, other entity, specified listed company and specified investor shall make application for allotment of unique identification numbers for itself and for its related persons in accordance with these regulations.

4. Specified intermediary and other entity to obtain unique identification numbers :-

(1) On and from such date as may be notified by the Board in the Official Gazette, no specified intermediary or other entity shall act as such, unless

(a) it has obtained a unique identification number from the

Designated Service Provider; and,

(b) the following related persons have been allotted unique identification numbers by the Designated Service Provider:

(i) its principal officer and personnel engaged in the operational activities of the intermediary for which a certificate of registration is required or taken from the Board;

(ii) its promoters, other than the Central or State Government or any statutory authority;

(iii) its directors, in case it is a body corporate;

(iv) its partners, in case it is a partnership firm;

(v) its associates and their directors;

(vi) the sponsors, trustees, asset management companies and asset managers, where applicable;

(vii) its proprietor, where applicable; and,

(viii) relatives of the natural persons mentioned in sub-clauses (i) to (vii) above: Provided that such person may continue to act as an intermediary or other entity if it has made applications for allotment of unique identification number under regulation 7 before the notified date and where such application has been rejected by the Board, an appeal has been filed and such appeal is pending for disposal.

(2) Every certificate of registration issued to a specified intermediary by the Board after commencement of these regulations shall be subject to the condition that prior to commencement of its activities, the intermediary shall obtain a unique identification number for itself and for the persons mentioned in clause (b) of sub-regulation (1) in accordance with these regulations. II. 1196

5. Specified listed company to obtain unique identification number :-

On and from such date as may be notified by the Board in the Official Gazette, no specified listed company or a company which intends to get its securities listed shall issue any securities which are proposed to be listed on a recognized stock exchange, unless

(a) it has obtained a unique identification number from the

Designated Service Provider; and

(b) the following related persons have been allotted unique identification numbers by the Designated Service Provider:

(i) its promoters, other than the Central or State Government or any statutory authority;

(ii) its directors and officers;

(iii) its designated employees;

(iv) its subsidiaries, its holding company and the holding company's subsidiaries, if any;

(v) its associates and their directors; and

(vi) relatives of the natural persons mentioned in sub-clauses (i) to (iii) and (v) above:

Provided that a specified listed company may, make an issue of securities which are proposed to be listed in any recognized stock exchange if it has made an application for allotment of unique identification number before the notified date, till the disposal of the application and where an appeal has been filed, till such appeal is disposed of.

6. Specified investors to obtain unique identification numbers :-

(1) On and from such date as may be notified by the Board in the Official Gazette, no specified investor, not being a body corporate, shall buy, sell or deal in any securities which are listed on any recognized stock exchange or in units of a mutual fund or a collective investment scheme or subscribe to securities which are proposed to be listed in any recognized stock exchange or units of a mutual fund or a collective investment scheme unless he has been allotted a unique identification number.

(2) On and from such date as may be notified by the Board in the Official Gazette, no specified investor being a body corporate shall buy, sell or deal in any securities which are listed on any recognized stock exchange or in units of a mutual fund or a collective investment scheme or subscribe to securities which are proposed to be listed in any recognized stock exchange or units of a mutual fund or a collective-investment scheme unless such specified investor, its promoters and directors have been allotted unique

identification numbers.

(3) On and from such date as may be notified by the Board in the Official Gazette, no specified investor, being a Foreign Institutional Investor, a sub-account or a Foreign Venture Capital Investor shall buy, sell or deal in any securities which are listed on any recognized stock exchange or in units of a mutual fund or a collective investment scheme or subscribe to securities which are proposed to be listed in any recognized stock exchange or units of a mutual fund or a collective investment scheme unless it has been allotted a unique identification number.

(4) No intermediary shall, after such specified date, deal in or allot such securities on behalf of or to a specified investor unless the investor has been allotted a unique identification number.

(5) Nothing in this regulation shall apply to any specified investor who has applied for allotment of a unique identification number under regulation 9 before the notified date, till the disposal of his application or, where he has filed an appeal, till the disposal of the appeal, as the case may be.

7. Application by specified intermediary or other entity :-

Every specified intermediary or other entity shall make an application in accordance with sub-regulation (1) of regulation 12 to the Designated Service Provider for allotment of unique identification numbers for itself and for its related persons.

8. Application by specified listed company :-

(1) Every specified listed company shall make an application to the Designated Service Provider in accordance with sub-regulation (2) of regulation 12 for allotment of unique identification numbers for itself and for its related persons.

(2) Every public company specified in the notification issued under regulation 5 and which intends to get its securities listed in a recognized stock exchange shall make an application to the Designated Service Provider for allotment of unique identification numbers for itself and for the related persons mentioned in clause (b) of regulation 4 simultaneously with the filing of the offer document with the Central Listing Authority.

9. Application by specified investor :-

Every specified investor shall make an application to the

Designated Service Provider in accordance with sub-regulation (3) of regulation 12 for allotment of a unique identification number.

10. Person holding a unique identification number not required to obtain another unique identification number :-

Notwithstanding anything contained in these regulations, no person shall be obliged to apply for or be allotted another unique identification number, if he already holds a unique identification number allotted to him under these regulations in any other capacity:

Provided that where any person holding a unique identification number subsequently becomes an intermediary or a listed company or a related person of any of them, he shall disclose such fact to the Designated Service Provider.

11. Maintenance of records :-

The Designated Service Provider shall maintain such books, records and documents, in such manner and for such period as may be specified by the Board.

CHAPTER 3

Grant and revocation of unique identification members

12. Format of application :-

(1) Every application made by a specified investor or a related person of a specified intermediary or specified listed company being a natural person, under regulation 7, 8 or 9, as the case may be, shall be in Form A specified in the Schedule and shall be accompanied with a fee as specified in the notifications issued under regulation 4, 5 or 6, as the case may be.

(2) Every application made by a specified listed company, specified intermediary, a related person of any of the above or a specified investor, not being a natural person, under regulation 7, 8 or 9, as the case may be, shall be in Form B specified in the Schedule and shall be accompanied with a fee as specified in the notifications issued under regulation 4, 5 or 6, as the case may be.

13. Procedure on receipt of application :-

(1) Upon receipt of an application for allotment of unique identification number under these regulations, the Designated Service Provider shall, if the application is not found defective, allot to the applicant a unique identification number within thirty days of

receipt of the application.

(2) Where it is found that any such application is defective, the Designated Service Provider may intimate the defect to the applicant and give it an opportunity to rectify the defect within a period of fifteen days from the date of such intimation or within such further period which the Board may allow on a request made in this behalf.

(3) Where any defect in the application is intimated under sub-regulation (2) and the defect is not rectified by the applicant within the said period of fifteen days or, as the case may be, further period allowed under sub-regulation (2), then, notwithstanding anything contained in any other provision of this Chapter, Designated Service Provider shall refer the application to the Board, which may either direct the Designated Service Provider to allot the unique identification number or reject the application after giving an opportunity to the applicant to make representations.

14. Criteria to determine specified intermediaries, specified listed companies and specified investors :-

For the purposes of specifying the intermediaries, listed companies or investors under sub-regulation (1) of regulation 4 or regulation 5 or sub-regulation (1) of regulation 6, the Board may take into consideration the following factors:

(a) with regard to intermediaries or other entities their kind and the nature of functions performed by them, their networth and other similar factors;

(b) with regard to listed companies or companies which intend to get their securities listed their paid up capital, the number of their public shareholders, the volume of trading in their securities, the proposed issue size and other similar factors; and

(c) with regard to investors the quantum of investment made by them in the securities of any listed company or their volume of trading in securities in a particular financial year.

15. Duty not to make false statements and revocation of unique identification number :-

(1) No person shall make a false statement or misrepresent any fact in any application made to the Designated Service Provider under these regulations.

(2) Every application made to the Designated Service Provider under these regulations and every intimation made under regulation 17 shall be certified to be true and correct:

(a) in case of an intermediary, by its whole time director, managing partner, managing trustee or sole proprietor, as the case may be, and by its compliance officer;

(b) in case of a listed company, by its whole time director and its company secretary or auditor; and

(c) in case of an investor, by him.

16. Revocation of unique identification number :-

(1) Where it is found that the unique identification number was obtained by a person through fraud or misrepresentation or was allotted to him under a mistake, the Board may, without prejudice to other action that it may take under any law for the time being in force and after giving him an opportunity of making representations, revoke the unique identification number allotted to him or to the related persons.

(2) Upon revocation of the unique identification number of a person, the provisions of these regulations shall apply from the date of revocation, as if no unique identification number was allotted to him.

(3) Every order passed by the Board under these regulations shall be in writing.

CHAPTER 4

Continuing Obligations

17. Duty to intimate changes :-

(1) Every person who has been allotted a unique identification number under these regulations shall intimate the changes if any, in the particulars submitted by him in the application, to the Designated Service Provider, in such electronic or other manner as may be specified by the Board, within thirty days of occurrence of the change.

(2) Every intermediary shall exercise due diligence to satisfy itself that its clients, being specified investors, have complied with sub-regulation (1).

18. Duty to seek unique identification numbers for newly

added related persons :-

(1) Every specified intermediary and other entity shall within thirty days of any person becoming a related person, ensure that such person has been allotted or has applied for a unique identification number.

(2) Every specified listed company shall within thirty days of any person becoming a related person, ensure that such person has been allotted or has applied for a unique identification number.

CHAPTER 5

Action in case of violation

19. Action for acting, dealing, etc. without obtaining unique identification number :-

Any person who issues any security or buys, sells or deals in any securities in contravention of these regulations shall be liable for

(a) action under sub-section (4) of section 11 of the Act;

(b) delisting of securities;

(c) being debarred from acting in any capacity in any security market related institution;

(d) such other action as may be deemed appropriate by the Board in the facts and circumstances of the case:

Provided that no such action shall be taken without following the procedure laid down under the relevant rules or regulations.

20. Action for giving false statement :-

Any person who makes any false statement or misrepresents any fact in any application or other document submitted to the Designated Service Provider shall, without prejudice to any action which may be taken under section 24 of the Act by the Board, be liable for action under section 15HB of the Act.

21. Action for failure to intimate changes :-

Any person who being required to do so, fails to intimate changes as required in regulation 15 shall be liable for action under clause (b) of section 15A of the Act.

22. Action for failure to make application for newly added related persons :-

Any intermediary or listed company who fails to ensure compliance with regulation 16 shall be liable for action under section 15HB of

the Act.

SCHEDULE 1

The Schedule