

SECURITIES AND EXCHANGE BOARD OF INDIA (COLLECTIVE INVESTMENT SCHEMES) REGULATIONS, 1999

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SECURITIES AND EXCHANGE BOARD OF INDIA (COLLECTIVE INVESTMENT SCHEMES) REGULATIONS, 1999

SEBI, Noti. No. S.O. 1035(E), dated October 15, 1999, published in the Gazette of India, Extra., Part II, Section 3(ii), dated 15th October, 1999, pp. 111-203, No. 630 [F. No. SEBI/19418/99] In exercise of the powers conferred by Section 30 read with Section 11 and Section 19 of the Securities and Exchange Board of India Act, 1992 (15 of 1992) the Securities and Exchange Board of India 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 (Collective Investment Schemes) Regulations, 1999.
- (2) They shall come into force on the date of their publication in the Official Gazette.

2. Definitions :-

- (1) In these regulations, unless the context otherwise requires:
 - (a) "Act" means the Securities and Exchange Board of India Act,

1992 (15 of 1992);

(b) "advertisement" includes-

(i) notices, brochures, pamphlets, circulars, showcards, catalogues, hoardings, placards, posters, insertions in newspapers, pictures, films and cover pages of offer documents;

(ii) any other matter to which publicity is given through print medium, radio, television programmes or electronic media;

(c) "appraising agency" means an agency empanelled with the Board for the purpose of conducting technical or financial appraisal of the scheme;

(d) "associate" in relation to a collective investment management company or trustee, includes a person:

(i) who, directly or indirectly, by himself, or in combination with other persons, exercises control over the Collective Investment Management Company or the trustee, as the case may be, or

(ii) in respect of whom the Collective Investment Management Company or the trustee, as the case may be directly or indirectly, by itself, or in combination with other persons, exercises control, or

(iii) whose director, officer or employee is a director, officer or employee of the Collective Investment Management Company or the trustee, as the case may be;

(e) "auditor" means a person qualified to audit the accounts of companies under the Companies Act, 1956 ;

(f) "Board" means the Securities and Exchange Board of India established under the provisions of Section 3 of the Act;

(g) "certificate" means a certificate of registration granted under Regulation 10 of these regulations;

(h) "Collective Investment Management Company" means a company incorporated under the Companies Act, 1956 and registered with the Board under these regulations, whose object is to organise, operate and manage a collective investment scheme;

(i) "collective investment scheme" has the meaning assigned to it by sub-regulation (ii) of this regulation;

(j) "closed-ended scheme" means any scheme launched by a

Collective Investment Management Company, in which the period of maturity of the scheme is specified and there is no provision for re-purchase before the expiry of the maturity of the scheme;

(k) "control" or "controlling interest" means control exercised or controlling interest held:

(i) in case of a company, by any person or combination of persons who directly or indirectly own, control or hold shares carrying not less than 10% of the voting rights of such company; or

(ii) as between two companies, if the same person or combination of persons, directly or indirectly, own, control or hold shares carrying not less than 10% of the voting rights of each of the two companies; or

(iii) majority of the directors of any company who are in a position to exercise control over the Collective Investment Management Company.

(l) "credit rating agency" means a body corporate registered under Securities and Exchange Board of India (Credit Rating Agencies) Regulations, 1999;

(m) "depository" means a body corporate as defined in the Depositories Act, 1996 ;

(n) "economic offence" means an offence to which the Economic Offences (Limitation of Prosecutions) Act, 1974 applies for the time being;

(o) "form" means any of the forms specified as such in the First Schedule;

(p) "fraud" has the same meaning as is assigned to it in Section 17 of the Contract Act, 1872 ;

(q) "inspecting officer" means any person appointed as such by the Board under Chapter VII of these regulations;

(r) "key-personnel" in relation to a company, means the persons who exercises effective control over its affairs;

(s) "net worth" means the aggregate value of the paid up equity capital and free reserves (excluding funds created out of revaluation), reduced by the aggregate value of accumulated losses and deferred expenditure not written off, including miscellaneous

expenses not written off;

(t) "offer document" means any document by which applications for subscribing to units of the scheme are invited from the public;

(u) "regulation" means a regulation forming part of these regulations;

(v) "relative" means a person who is a relative, as defined in Section 6 of the Companies Act, 1956 ;

(w) "registrars to an issue and share transfer agent" means a person registered as Registrars to an Issue and Share Transfer Agents under the Securities and Exchange Board of India (Registrar to an Issue and Share Transfer Agents) Regulations, 1993;

(x) "Schedule" means any of the schedule appended to these regulations;

(y) "scheme" means a collective investment scheme;

(z) "scheme property" includes:

(i) subscription of moneys or money's worth (including bank deposits) to the scheme;

(ii) property acquired, directly or indirectly, with, or with the proceeds of, subscription of money referred to in item (i) of this clause; or

(iii) income arising, directly or indirectly, from subscription money or property referred to in item (i) or (ii);

(aa) "securities laws" means:

(i) the Securities and Exchange Board of India Act, 1992 (15 of 1992);

(ii) the Securities Contracts (Regulation) Act, 1956; and

(iii) the Depositories Act, 1996 , as amended from time to time;

(bb) "stock broker" means a stock broker as defined in Securities and Exchange Board of India (Stock Brokers and Sub-brokers) Rules, 1992;

(cc) "trustee" means a person who holds the property of the collective investment scheme in trust for the benefit of the unit holders, in accordance with these regulations;

(dd) "unit" includes any instrument issued under a scheme, by whatever name called, denoting the value of the subscription of a unit holder; and

(ee) "unit holder" means a person holding a unit in a scheme.

"¹ (2) In these regulations the expression collective Investment scheme shall have the same meaning assigned to it under Sec. 11-AA of the Act"

(3) Words and expressions used and not defined in these regulations, but defined in the Act shall have the same meanings as are respectively assigned to them in the Act.

1. Substituted for "(2) In these regulations, unless the context otherwise requires, "collective investment scheme" means any scheme or arrangement with respect to property of any description- (a) the purpose of which is to enable the investors to participate in the scheme or arrangements by way of subscriptions and to receive profits or income or produce arising from the management of such property or the investments made thereof; (b) in which the subscriptions of the investors by whatever name called, are pooled, and are utilised for the purposes of the schemes or the arrangements; and (c) in which the property or such subscriptions are managed on behalf of the investors, who do not have day to day control over the management or operation of the scheme; whether or not such properties or subscriptions and the investments made thereof are evidenced by identifiable properties or otherwise: Provided that following shall not be deemed to be a collective investment scheme: (a) acceptance of deposits by companies under Section 58A of the Companies Act, 1956 (1 of 1956) or by Non-Banking Financial Companies as defined in Section 45I of the Reserve Bank of India Act, 1934 (2 of 1934) (b) acceptance of funds by Chit Funds in terms of the Chit Funds Act, 1982 (40 of 1982) (c) acceptance of funds by companies declared as Nidhi companies under Section 620A of the Companies Act, 1956 (1 of 1956), as per directions issued under, Section 637A of the said Act; (d) contracts of insurance under the Insurance Act, 1938 (4 of 1938) (e) any scheme of the employer as per Employees' Provident Fund and Miscellaneous Provisions Act, 1952 (19 of 1952); or any other recognised Provident Fund under the Income Tax Act, 1961 (f) arrangements of co-operative societies under the Co-operative Societies Act, 1912 (2 of 1912) including Cooperative Societies registered under any Provincial Act or State Act for the time being in force; (g) any scheme under Securities and Exchange Board of India (Mutual Funds) Regulations, 1996; or (h) any other scheme or arrangement specifically exempted by the Board, from the operation of these regulations." by the Securities and Exchange Board of India (Collective Investment Schemes) (Amendment)

3. No person other than Collective Investment Management Company to launch scheme :-

No person other than a Collective Investment Management Company which has obtained a certificate under these regulations shall carry on or sponsor or launch a collective investment scheme.

4. Application for grant of certificate :-

Any person proposing to carry any activity as a Collective Investment Management Company on or after the commencement of these regulations shall make an application to the Board for the grant of registration in Form A.

5. Application by existing Collective Investment Schemes :-

(1) Any person who immediately prior to the commencement of these regulations was operating a scheme, shall subject to the provisions of Chapter 9 of these regulations make an application to the Board for the grant of a certificate within a period of two months from such date.

(2) An application under sub-regulation (1) shall contain such particulars as are specified in Form A and shall be treated as an application made in pursuance of Regulation 4 and dealt with accordingly.

6. Application fee to accompany the application :-

Every application for registration under Regulation 4 shall be accompanied by a non-refundable application fee as specified in the Second Schedule.

7. Application to conform to the requirements :-

An application, which is not complete in all respects or does not conform to the requirements of Regulation 6 or Regulation 9 shall be rejected by the Board:

Provided that before rejecting any such application, the applicant may be given an opportunity to remove within one month such objections as may be indicated by the Board:

Provided further that the Board may on sufficient reasons being shown extend the time in order to enable the applicant to remove such objections.

8. Furnishing information :-

(1) The Board may direct the applicant to furnish such further information or clarification as may be required by it, for the purpose of processing the application.

(2) The Board, if it so desires, may ask the applicant or its authorised representative to appear before the Board for personal representation in connection with the grant of a certificate.

9. Conditions for eligibility :-

The Board shall not consider an application for the grant of a certificate unless the applicant satisfies the following conditions, namely :-

(a) the applicant is set up and registered as a company under the Companies Act, 1956 ;

(b) the applicant has, in its Memorandum of Association specified the managing of collective investment scheme as one of its main objects;

(c) the applicant has a net worth of not less than rupees five crores: Provided that at the time of making the application the applicant shall have a minimum net worth of rupees three crores which shall be increased to rupees five crores within three years from the date of grant of registration.

(d) the applicant is a fit and proper person for the grant of such certificate;

(e) the applicant has adequate infrastructure to enable it to operate collective investment scheme in accordance with the provision of these regulations;

(f) the directors or key personnel of the applicant shall consist of persons of honesty and integrity having adequate professional experience in related field and have not been convicted for an offence involving moral turpitude or for any economic offence or for the violation of any securities laws;

(g) at least fifty per cent of the directors of such Collective Investment Management Company shall consist of persons who are independent and are not directly or indirectly associated with the persons who have control over the Collective Investment Management Company;

(h) no person, directly or indirectly connected with the applicant has in the past been refused registration by the Board under the Act.

Explanation.-For the purposes of this clause, the Board shall take into account whether the previous application for a certificate of any person, directly or indirectly, connected with the applicant has been rejected by the Board or any disciplinary action has been taken against such person under the Act or any of the rules or any of the regulations made under the Act.

(i) at least one of the directors, on the Board of the Collective Investment Management Company, who is not subject to retirement, is a representative of the trustee;

(j) the Collective Investment Management Company is not a trustee of any collective investment scheme;

(k) in case the applicant is an existing collective investment scheme, it complies with the provisions of Chapter 9 of these regulations.

10. Grant of certificate :-

(1) The Board may, on receipt of an application and on being satisfied that the applicant complies with the requirements specified in Regulation 9, call upon the applicant to pay registration fee as specified in the Second Schedule.

(2) On receipt of registration fee, the Board shall grant a certificate in Form B, on such terms and conditions as are in the interest of investors and as may be specified by the Board.

11. Terms and conditions to be complied with :-

The certificate granted under Regulation 10 shall be subject to the following conditions, namely :-

(a) any director of the Collective Investment Management Company shall not be a director in any other Collective Investment Management Company unless such person is an independent director referred to in clause (g) of Regulation 9 and approval of the Board of Collective Investment Management Companies of which such person is an independent director, has been obtained:

(b) the Collective Investment Management Company shall forthwith inform the Board of any material change in the information or

particulars previously furnished, which have a bearing on the certificate granted by it;

(c) appointment of a director of a Collective Investment Management Company shall be made with the prior approval of the trustee;

(d) the Collective Investment Management Company shall comply with provisions of the Act and these regulations;

(e) no change in the controlling interest of the Collective Investment Management Company shall be made without obtaining prior approval of the Board, the trustee and the unit holders holding at least one-half of the nominal value of the unit capital of the scheme;

(f) The Collective Investment Management Company shall take adequate steps to redress the grievances of the investors within one month from the date of receipt of the complaint from the aggrieved investor.

12. Procedure where registration is not granted :-

(1) Where an application made under Regulation 4 for grant of registration does not satisfy the conditions specified in Regulation 9, the Board may reject the application after giving the applicant a reasonable opportunity of being heard and inform the applicant of the same.

(2) The decision shall be communicated to the applicant by the Board within 30 days of such decision stating therein the grounds on which the application has been rejected.

CHAPTER 3

BUSINESS ACTIVITIES AND OBLIGATIONS OF COLLECTIVE INVESTMENT MANAGEMENT COMPANY

13. Restrictions on business activities :-

The Collective Investment Management Company shall not-

(a) undertake any activity other than that of managing the scheme;

(b) act as a trustee of any scheme;

(c) launch any scheme for the purpose of investing in securities;

(d) invest in any schemes floated by it: Provided that a Collective

Investment Management Company may invest in its own scheme:

- (i) if it makes a disclosure of its intention to invest in the offer document of the scheme, and
- (ii) does not charge any fees on its investment in that scheme.

14. Obligations of Collective Investment Management Company :-

Every Collective Investment Management Company shall:

- (a) be responsible for managing the funds or properties of the scheme on behalf of the unit holders;
- (b) take all reasonable steps and exercise due diligence to ensure that the scheme is managed in accordance with the provisions of these regulations, offer document and the trust deed;
- (c) exercise due diligence and care in managing assets and funds of the scheme;
- (d) be responsible for the acts of commissions and omissions by its employees or the persons whose services have been availed by it;
- (e) remain liable to the unit holders for its acts of commission or omissions, notwithstanding anything contained in any contract or agreement;
- (f) be incompetent to enter into any transaction with or through its associates, or their relatives relating to the scheme:

Provided that in case the Collective Investment Management Company enters into any transactions relating to the scheme with any of its associates, a report to that effect shall immediately be sent to the trustee and to the Board;

- (g) appoint registrar and share transfer agents;
- (h) abide by the Code of Conduct as specified in the Third Schedule;
- (i) give receipts for all monies received by it and give a report to the Board every month, particularly of receipts and payments;
- (j) hold a meeting of the Board of Directors to consider the affairs of scheme at least twice in every three months;
- (k) ensure that its officers or employees do not make improper use of their position or information to gain, directly or indirectly, an

advantage for themselves or for any other person or to cause detriment to the scheme;

(l) obtain adequate insurance against the property of the scheme;

(m) comply with such guidelines, directives, circulars and instructions as may be issued by the Board from time to time, on the subject of collective investment schemes.

15. Submission of information and documents :-

(1) The Collective Investment Management Company shall prepare quarterly reports (i.e. as at the end of March, June, September and December) on its activities and the position regarding compliance with these regulations and submit the same to the trustees within one month of the expiry of each quarter.

(2) The Collective Investment Management Company shall file with the trustee and the Board-

(a) particulars of all its directors along with their interest in other companies within fifteen days of their appointment; and

(b) any change in the interests of directors, within fifteen days of such change.

(3) The Collective Investment Management Company shall furnish a copy of the Balance Sheet, Profit and Loss Account and a copy of the summary of the yearly appraisal report to the unit holders within two months from the closure of financial year.

(4) The Collective Investment Management Company shall furnish to the Board and the trustee such information and documents to the Board and the trustee as may be required by them concerning the affairs of the scheme.

CHAPTER 4

TRUSTEES AND THEIR OBLIGATIONS

16. Trust Deed to be registered under the Registration Act :-

(1) A scheme shall be constituted in the form of a trust and the instrument of trust shall be in the form of a deed duly registered under the provisions of the Registration Act, 1908 executed by the Collective Investment Management Company in favour of the trustees named in such an instrument.

(2) Appointment of trustees.-A Collective Investment Management Company shall appoint a trustee who shall hold the assets of the scheme for the benefit of unitholders.

17. Contents of trust deed :-

(1) The trust deed shall contain such clauses as are specified in the Fourth Schedule and such other clauses as are necessary for safeguarding the interests of the unitholders.

(2) No trust deed shall contain a clause which has the effect of-

(i) limiting or extinguishing the obligations and liabilities of the Collective Investment Management Company in relation to any scheme or the unitholders: or

(ii) indemnifying the trustee or the Collective Investment Management Company for loss or damage caused to the unitholders by their acts of negligence or acts of commissions or omissions.

18. Eligibility for appointment as trustee :-

(1) Only persons registered with the Board as Debenture Trustee under the Securities and Exchange Board of India (Debenture Trustee) Regulations, 1993 shall be eligible to be appointed as trustees of collective investment scheme:

Provided that no person shall be eligible to be appointed as trustee, if he is directly or indirectly associated with the persons who have control over the collective investment management company.

(2) The Collective Investment Management Company shall furnish to the Board particulars as specified in Form C in respect of trustees appointed under sub-regulation (1).

19. Appointment of trustee not found guilty :-

No person shall be appointed as trustee of a scheme if-

(a) he has been found guilty of an offence under the securities laws, or

(b) the Board or any authority to which the Board has delegated its power has passed against such person, an order under the Act for violation of any provision of the Act or regulations made hereunder.

20. Agreement with collective investment management company :-

(1) The trustee and the Collective Investment Management Company shall enter into an agreement for managing the scheme property.

(2) The agreement for managing the scheme property shall contain such clauses as are specified in the Fifth Schedule and such other clauses as are necessary for the purpose of fulfilling the objectives of the scheme.

21. Rights and obligations of the trustee :-

(1) The trustee shall have a right :-

(a) to obtain from the Collective Investment Management Company such information as is considered necessary by the trustee;

(b) to inspect the books of accounts and other records relating to the scheme.

(2) The trustee shall ensure that the Collective Investment Management Company has-

(a) the necessary office infrastructure;

(b) appointed all key personnel including managers for the schemes and submitted their bio-data which shall contain the educational qualifications and past experience in the areas relevant for fulfilling the objectives of the schemes;

(c) appointed auditors to audit the accounts of the scheme from the list of auditors approved by the Board;

(d) appointed a compliance officer to comply with the provisions of the Act and these regulations and to redress investor grievances;

(e) appointed registrars to an issue and share transfer agent;

(f) prepared a compliance manual and designed internal control mechanisms including internal audit systems;

(g) taken adequate insurance for the assets of the scheme;

(h) not given any undue or unfair advantage to any associates of the company or dealt with any of the associates in any manner detrimental to the interest of the unit holders;

(i) operated the scheme in accordance with the provisions of the trust deed, these regulations and the offer document of the scheme(s);

(j) undertaken the activity of managing schemes only;

(k) taken adequate steps to ensure that the interest of investors of one scheme are not compromised with the object of promoting the interest of investors of any other scheme;

(l) minimum networth on a continuous basis and shall inform the Board immediately of any shortfall;

(m) been diligent in empanelling the marketing agents and in monitoring their activities.

(3) Where the trustee has reason to believe that the conduct of business of the scheme is not in accordance with these regulations, trust deed and the offer document of the scheme, the trustee shall forthwith take such remedial steps as are necessary and shall immediately inform the Board of the action taken.

(4) The trustee shall be accountable for, and be the custodian of, the funds and property of the respective schemes and shall hold the same in trust for the benefit of the unit holders in accordance with these regulations and the provisions of trust deed.

(5) The trustee shall be responsible for the calculation of any income due to be paid to the scheme and also for any income received in the scheme to the unitholders.

(6) The trustee shall convene a meeting of the unitholders-

(a) whenever required to do so by the Board in the interest of the unit-holders; or

(b) whenever required to do so on the requisition made by unit holders holding at least one-tenth of nominal value of the unit capital of any scheme; or

(c) when any change in the fundamental attributes of any scheme which affects the interest of the unitholders is proposed to be carried out. Provided that no such change shall be carried out unless the consent of unitholders holding at least three-fourths of nominal value of the unit capital of the scheme is obtained.

Explanation.-For the purposes of this clause "fundamental attributes" means the investment objective and terms of a scheme.

(7) The trustee shall review:

(a) on a quarterly basis (i.e. by the end of March, June, September and December) every year all activities carried out by the Collective Investment Management Company;

(b) periodically all service contracts relating to registrars to an issue and share transfer agents and satisfy itself that such contracts are fair and reasonable in the interest of the unitholders;

(c) investor complaints received and the redressal of the same by the Collective Investment Management Company.

(8) (i) The trustee shall ensure that :-

(a) net worth of Collective Investment Management Company is not deployed in a manner which is detrimental to interest of unitholders;

(b) property of each scheme is clearly identifiable as scheme property and held separately from property of the Collective Investment Management Company and property of any other scheme;

(c) clearances or no objection certificate is obtained, in respect of transactions relating to property of the scheme from such authority as is competent to grant such clearance or no objection certificate.

(ii) The trustee shall abide by the Code of Conduct as specified in the Third Schedule.

(9) The trustee shall furnish to the Board on a quarterly basis (i.e. by end of March, June, September and December), every year-

(a) a report on the activities of the scheme;

(b) a certificate stating that the trustee has satisfied himself that affairs of the Collective Investment Management Company and of the various schemes are conducted in accordance with these regulations and investment objective of each scheme.

(10) The trustee shall cause-

(a) the profit and loss accounts and balance sheet of the schemes to be audited at the end of each financial year by an auditor empanelled with the Board.

(b) each scheme to be appraised at the end of each financial year by an appraising agency.

(c) scheme rated by a credit rating agency.

(11) A meeting of the trustees to discuss the affairs of the scheme shall be held at least twice in every three months in a financial year.

(12) The trustee shall report to the Board any breach of these regulations and has had, or is likely to have, a materially adverse effect on the interests of unit holders as soon as they become aware of the breach.

(13) The trustee shall ensure that-

(a) the fees and expenses of the scheme are within the limits as specified in Part I of the Ninth Schedule;

(b) accounts of the schemes are drawn up in accordance with the accounting norms as specified in Part II of the Ninth Schedule;

(c) accounts of the scheme comply with the format of the balance sheet and the profit and loss account as specified in Part III of the Ninth Schedule.

22. Termination of trusteeship :-

(1) The trusteeship of a trustee shall come to an end-

(a) if the trustee ceases to be trustee under the Securities and Exchange Board of India (Debentures Trustees) Regulations, 1993; or

(b) if the trustee is in the course of being wound up; or

(c) if unit holders holding at least three-fourths of the nominal value of the unit capital of the scheme pass a resolution for removing the trustee and the Board approves such resolution; or

(d) if in the interest of the unit holders, the Board, for reasons to be recorded in writing decides to remove the trustee for any violation of the Act or these regulations committed by them; or

Provided that the trustee shall be afforded reasonable opportunity of hearing before action is taken under this clause;

(e) if the trustee serves on the Collective Investment Management Company a notice of not less than three months expressing its intention not to continue as trustee.

(2) On termination of the trusteeship under sub-regulation (1),

another trustee, eligible to be appointed under Regulation 18, shall be appointed by the Collective Investment Management Company,

(3) The appointment of the new trustee under sub-regulation (2), shall be completed within three months from the date the previous trusteeship came to an end.

(4) The Board may notwithstanding anything contained in Regulation 18 appoint any person as a trustee if the Collective Investment Management Company fails to appoint a trustee under sub-regulations (2) and (3).

(5) The trustee appointed under sub-regulations (3) and (4) shall stand substituted as a trustee in all the documents to which the trustee so removed was a party.

(6) The person appointed by the Board shall apply to the Court for an order directing the Collective Investment Management Company to wind up the scheme.

(7) A trust deed in the form as specified under Regulation 16 shall be executed by the Collective Investment Management Company in favour of the trustee so appointed and from the date of such appointment, trustees shall be subject to all the rights and duties as specified in the regulations.

(8) The trustee so removed shall from such date be discharged from complying with the obligations under the trust deed but shall remain liable for any action taken by them before such removal.

23. Termination of the Agreement with the Collective Investment Management Company. :-

(1) The agreement referred to in Regulation 20 entered into by the trustee with the Collective Investment Management Company may be terminated-

(a) if the Collective Investment Management Company is in the course of being wound up as per the provisions of the Companies Act, 1956 ; or

(b) if unit holders holding at least three-fourths of the nominal value of the unit capital of the scheme pass a resolution for terminating the agreement with the Collective Investment Management Company and the prior approval of the Board has been obtained; or

(c) if in the interest of the unitholders the Board or the trustee, after obtaining prior approval of the Board, and after giving an opportunity of being heard to the Collective Investment Management Company, decide to terminate the agreement with the Collective Investment Management Company.

(2) Upon termination of agreement under sub-regulation (1), another Collective Investment Management Company, registered with the Board, shall be appointed by the trustee within three months from the date of such termination.

(3) The Collective Investment Management Company so removed shall continue to act as such at the discretion of trustee or the trustee itself may act as Collective Investment Management Company till such time as new Collective Investment Management Company is appointed.

(4) The Collective Investment Management Company appointed under sub-regulation (2) shall stand substituted as a party in all the documents to which the Collective Investment Management Company so removed was a party.

(5) The Collective Investment Management Company so removed shall continue to be liable for all acts of omission and commissions notwithstanding such termination.

(6) If, none of the Collective Investment Management Company, registered under these regulations, consent to be appointed as Collective Investment Management Company within a further period of three months, then the trustee may wind-up the scheme.

(7) An agreement for managing scheme property shall be executed in favour of the new Collective Investment Management Company subject to all the rights and duties as specified in the regulations.

CHAPTER 5

SCHEMES OF COLLECTIVE INVESTMENT MANAGEMENT COMPANY

24. Procedure for launching of schemes :-

(1) No scheme shall be launched by the Collective Investment Management Company unless such scheme is approved by the Trustee.

(2) Rating.-No scheme shall be launched by the Collective Investment Management Company without obtaining rating from a credit rating agency.

(3) Appraisal.-No scheme shall be launched by the Collective Investment Management Company without getting the scheme appraised by an appraising agency.

(4) Close-ended scheme and Scheme duration.-Collective Investment Management Company shall-

(a) launch only close ended schemes:

(b) the duration of the schemes shall not be of less than three calendar years.

(5) Insurance.-Collective Investment Management Company shall obtain adequate insurance policy for protection of the scheme property.

25. No Guaranteed returns :-

No scheme shall provide guaranteed or assured returns: Provided that indicative return may be indicated in the offer document only, if the same is assessed by the appraising agency and expressed in monetary terms.

26. Disclosures in the offer document :-

(1) The Collective Investment Management Company shall before launching any scheme file a copy of the offer document of the scheme as referred to in sub-regulation (1) of Regulation 24 with the Board any pay filing fees as specified in the Second Schedule.

(2) The offer document shall contain such information as specified in the Sixth Schedule.

(3) The offer document shall also contain true and fair view of the scheme and adequate disclosures to enable the investors to make informed decision.

(4) The Board may in the interest of investors require the Collective Investment Management Company to carry out such modifications in the offer document as it deems fit.

(5) In case no modifications are suggested by the Board in the offer document within 21 days from the date of filing, the Collective Investment Management Company may issue the offer document to public.

27. Advertisement material :-

(1) Advertisements in respect of every scheme shall be in

conformity with the Advertisement Code as specified in the Seventh Schedule.

(2) The advertisement for each scheme shall disclose in addition to the investment objectives, the method and periodicity of valuation of scheme property.

28. Appraising Agency :-

The appraising agency whose appraisal report forms part of the offer document and has given a written consent for the inclusion of the appraisal report in the offer document shall be liable for any statement in the appraisal report which is misleading, incorrect or false.

29. Misleading Statements :-

(1) The offer document and advertisement materials shall not be misleading or contain any statement or opinion which are incorrect or false.

(2) Where an offer document or advertisement includes any statement or opinion which are incorrect or false or misleading, every person-

(i) who is a director of the Collective Investment Management Company at the time of the issue of the offer document;

(ii) who has issued the offer document and shall be punishable under the Act unless he proves either that the statement or opinion was immaterial or that he had reasonable ground to believe at the time of the issue of the offer document or advertisement that the statement was true.

30. Offer Period :-

No scheme shall be open for subscription for more than 90 days.

31. Allotment of Units and refunds of moneys :-

(1) The Collective Investment Management Company shall specify in the offer document,-

(a) the minimum and the maximum subscription amount it seeks to raise under the scheme: and

(b) in case of oversubscription the process of allotment of the amount oversubscribed.

(2) The Collective Investment Management Company shall refund

the application money to the applicants,-

(i) if the scheme fails to receive the minimum subscription amount referred to in clause (a) of sub-regulation (1).

(3) Any amount refundable under sub-regulation (2) shall be refunded within a period of six weeks from the date of closure of subscription list, by Registered A.D. and by cheque or demand draft marked "A/C Payee" to the applicants.

(4) In the event of failure to refund the amounts within the period specified in sub-regulation

(3), the Collective Investment Management Company shall pay interest to the applicants at a rate of fifteen per cent per annum on the expiry of six weeks from the date of closure of the subscription list.

32. Unit certificates :-

The Collective Investment Management Company shall issue to the applicant whose application has been accepted, unit certificates as soon as possible but not later than six weeks from the date of closure of the subscription list:

Provided that if the units are issued through a depository, a receipt in lieu of unit certificate will be issued as per provisions of Securities and Exchange Board of India (Depositories and Participants) Regulations, 1996 and by laws of the depository.

33. Transfer of units :-

(1) A unit certificate issued under the scheme shall be freely transferable.

(2) The Collective Investment Management Company shall, on production of instrument of transfer together with relevant unit certificates, register the transfer and return the unit certificate to the transferee within thirty days from the date of such production:

Provided that if the units are held in a depository such units shall be transferable in accordance with the provisions of the Securities and Exchange Board of India (Depositories and Participants) Regulations, 1996 and the bye-laws of the depository.

34. Money to be kept in separate account and utilisation of money :-

(1) The subscription amount received shall be kept in a separate bank account in the name of the scheme and shall be utilised for-

(a) adjustment against allotment of units only after the trustee has received a statement from the registrars to the issue and share transfer agent regarding minimum subscription amount, as stated in the offer document, having been received from the public; or

(b) for refund of money in case minimum subscription amount, as stated in the offer document, has not been received or in case of oversubscription.

(2) The minimum subscription amount as specified in the offer document shall not be less than the minimum amount, as specified by the appraising agency, needed for completion of the project for which the scheme is being launched.

(3) The moneys credited to the account of the scheme shall be utilised for the purposes of the scheme and as specified in the offer document.

(4) Any unutilised amount lying in the account of the scheme shall be invested in the manner as disclosed in the offer document.

35. Investments and segregation of funds :-

The Collective Investment Management Company shall:

(a) not invest the funds of the scheme for purposes other than the objective of the scheme as disclosed in the offer document;

(b) segregate the scheme assets of different schemes;

(c) not invest corpus of a scheme in other schemes;

(d) not transfer funds from one scheme to another scheme:

Provided that inter scheme transfer of scheme property may be permitted at the time of termination of the scheme with prior approval of the trustee and the Board.

36. Listing of schemes :-

The units of every scheme shall be listed immediately after the date of allotment of units and not later than six weeks from the date of closure of the scheme on each of the stock exchanges as mentioned in the offer document.

37. Winding up of scheme :-

(1) A scheme shall be wound up on the expiry of duration specified in the scheme or on the accomplishment of the purpose of the scheme.

(2) Notwithstanding anything contained in sub-regulation (1), a scheme may also be wound up-

(a) on the happening of any event which, in the opinion of the trustee, requires the scheme to be wound up and the prior approval of the Board is obtained; or

(b) if unit holders of a scheme holding at least three-fourth of the nominal value of the unit capital of the scheme pass a resolution that the scheme be wound up and the approval of the Board is obtained; or

(c) if in the opinion of the Board, the continuance of the scheme is prejudicial to the interests of the unit-holders; or

(d) if in the opinion of the Collective Investment Management Company, the purpose of the scheme can not be accomplished and it obtains the approval of the trustees and also of the unitholders of the scheme holding at least % of the nominal value of the unit capital of the scheme with a resolution that the scheme be wound up and the approval of the Board is obtained.

(3) Where a scheme is to be wound up under sub-regulation (1) or sub-regulation (2), the trustee shall give notice disclosing the circumstances leading to the winding up of the scheme in a daily newspaper having nation wide circulation and in the newspaper published in the language of the region where the Collective Investment Management Company is registered.

(4)

(a) The trustee shall dispose of the assets of the scheme concerned in the best interest of the unit holders of that scheme.

(b) The proceeds of sale realised under clause (a), shall be first utilised towards the discharge of such liabilities as are due and payable under the scheme and after making appropriate provision for meeting the expenses connected with such winding up, the balance shall be paid to the unitholders in proportion to their unit holding.

(5) On the completion of the winding up, the trustee shall forward

to the Board and the unitholders:

(a) a report on the steps taken for realisation of assets of the scheme, expenses for winding up and net assets available for distribution to the unitholders; and

(b) a certificate from the auditors of the scheme to the effect that all the assets of the scheme are realised and the details of the distribution of the proceeds.

(6) The unclaimed money if any at the time of winding up shall be kept separately in a bank account by the trustee for a period of three years for the purpose of meeting investors' claims and thereafter shall be transferred to investor protection fund, as may be specified by the Board.

38. Effect of commencement of winding up proceedings :-

On and from the date of the publication of notice under sub-regulation (3) of Regulation 37, the trustee or the Collective Investment Management Company as the case may be, shall cease to carry on any business activities in respect of the scheme so wound up.

39. Cessation of the scheme :-

If, after the receipt of the report under sub-regulation (5) of Regulation 37, the Board is satisfied that all the measures for winding up of the scheme have been complied with, the scheme shall cease to exist.

CHAPTER 6

GENERAL OBLIGATIONS

40. To maintain proper books of accounts and records, etc

:-

(1) Every Collective Investment Management Company shall-

(a) keep and maintain proper books of accounts, records and documents, for each scheme so as to explain its transactions and to disclose at any point of time the financial position of each scheme and in particular give a true and fair view of the state of affairs of the scheme; and

(b) intimate to the Board and the trustees the place where such books of accounts, records and documents including computer records are maintained.

(2) Every Collective Investment Management Company shall continue to maintain and preserve, for a period of five years after the close of each scheme, its books of accounts, records, computer data and documents.

41. Financial year :-

The financial year for all the schemes shall end as of March 31 of each year.

42. Despatch of warrants and proceeds :-

The Collective Investment Management Company shall,-

(a) despatch to the unit holders the warrants within 42 days of the declaration of the interim returns;

(b) despatch the redemption proceeds within 30 days of the closure or the winding up of the scheme.

43. Statement of Accounts and Annual Report :-

(1) The Collective Investment Management Company shall,-

(a) not exceed the ceilings on expenses or fees in respect of the scheme as specified in Part I of the Ninth Schedule.

(b) prepare the accounts of the scheme in accordance with accounting norms as specified in Part II of the Ninth Schedule;

(c) comply with format of balance sheet and profit and loss accounts as specified in Part III of the Ninth Schedule;

(2) An Annual Report and Annual Statement of Accounts of each scheme shall be prepared in respect of each financial year.

(3) Every Collective Investment Management Company shall within two months from the date of closure of each financial year forward to the Board a copy of the Annual Report.

44. Auditors Report :-

(1) Every scheme shall have the annual statement of accounts audited by an auditor who is empanelled with the Board and who is not in any way associated with the auditor of the Collective Investment Management Company.

(2) The auditor shall be appointed by the trustee.

(3) The auditor shall forward his report to the trustee and such report shall form part of the Annual Report of the scheme.

(4) The auditor's report shall comprise the following :-

(a) a certificate to the effect that :-

(i) he has obtained all information and explanations which, to the best of his knowledge and belief, were necessary for the purpose of the audit;

(ii) the balance sheet and the revenue account give a fair and true view of the scheme, state of affairs and surplus or deficit in the scheme for the accounting period to which the balance sheet or, as the case may be the revenue account relates;

(iii) the statement of account has been prepared in accordance with accounting policies and standards as specified in the Part II of the Ninth Schedule;

(iv) any other matter which in the opinion of the auditor is vital and has a bearing on the schemes.

45. Functions of auditors of scheme :-

(1) The auditor of the scheme shall, as soon as possible, notify the Board and the trustee in writing if he has reasonable grounds to suspect that a contravention of the regulations has occurred or if the schemes are not conducted on sound commercial principles.

(2) The auditor of the scheme:

(a) shall have a right of access at all reasonable times to the books of the scheme; and

(b) may require any employee of the Collective Investment Management Company to give the auditor information and explanations for the purposes of the audit.

46. Removal or Resignation of auditors :-

(1) The trustee, after prior approval of the trustee and for reasons to be recorded in writing remove the auditor of the scheme for misconduct or inefficiency after giving the auditor a reasonable opportunity of hearing: Provided that another auditor for the scheme is appointed by trustee immediately from auditors empanelled with the Board,

(2) The auditor of the scheme may resign by giving a three months written notice to the Collective Investment Management Company

and to the trustee.

47. Publication of Annual Report and summary thereof :-

(1) The scheme wise annual report or an abridged form thereof shall be published in a national daily as soon as possible but not later than two calendar months from the date of finalisation of accounts.

(2) The annual report shall contain details as specified in the Ninth Schedule and such other details as are necessary for the purpose of providing a true and fair view of the operations of the collective investment scheme.

(3) The report if published in abridged form shall carry a note that full annual report shall be available for inspection at the Head Office and all branch offices of the Collective Investment Management Company.

48. Periodic and continual disclosures :-

(1) The Collective Investment Management Company and the trustee, shall make such disclosures or submit such documents as they may be called upon by the Board to make or submit.

(2) Without prejudice to the generality of sub-regulation (1), the Collective Investment Management Company on behalf of the scheme shall furnish the following periodic reports to the Board, namely :-

(a) copies of the duly audited annual statements of accounts including the balance sheet and the profit and loss account in respect of each scheme, once a year;

(b) a copy of quarterly unaudited accounts;

(c) a quarterly statement of changes in net assets for each of the schemes.

49. Quarterly disclosures :-

A Collective Investment Management Company, on behalf of the scheme shall before the expiry of one month from the close of each quarter that is 31st March, 30th June, 30th September and 31st December publish its unaudited financial results in one daily newspaper having nationwide circulation and in a newspaper published in the language of the region where the Head Office of the Collective Investment Management Company is situated:

Provided that the quarterly unaudited report referred in this sub-regulation shall contain details as specified in the regulations and such other details as are necessary for the purpose of providing a true and fair view of the operations of the scheme.

50. Disclosures to the investors :-

The trustee shall ensure that the Collective Investment Management Company shall make such disclosures to the unit holders as are essential in order to keep them informed about any matter which may have an adverse bearing on their investments.

51. Calling of meeting of unitholders, transfer and transmission of units :-

The calling of meeting of unitholders as well as transfer and transmission of units of scheme shall be as per the provisions of the Eighth Schedule.

CHAPTER 7

INSPECTION AND AUDIT

52. Boards right to inspect and investigate :-

(1) The Board may appoint one or more persons as inspecting officer to undertake the inspection of the books of accounts, records, documents and infrastructure, systems and procedures or to investigate the affairs of the trustee and Collective Investment Management Company for any of the following purposes, namely:

(a) to ensure that the books of accounts are being maintained by the Collective Investment Management Company in the manner specified in these regulations; (b) to ascertain whether the provisions of the Act and these regulations are being complied with by the trustee and Collective Investment Management Company;

(c) to ascertain whether the systems, procedures and safeguards followed by the Collective Investment Management Company are adequate;

(d) to investigate into the complaints received from the investors or any other person on any matter having a bearing on the activities of the trustee and Collective Investment Management Company.

53. Notice before inspection and investigation :-

(1) Before ordering an inspection under Regulation 52 the Board shall give not less than ten days notice to the Collective Investment Management Company or trustee as the case may be.

(2) Notwithstanding anything contained in sub-regulation (1), where the Board is satisfied that in the interest of the investors no such notice is required to be given, it may, by an order in writing direct that such inspection or investigation be taken up immediately without any notice.

(3) During the course of inspection or investigation, the trustee or Collective Investment Management Company against whom the inspection or investigation is being carried out shall be bound to discharge his obligations as provided in Regulation 54.

54. Obligations during inspection and investigation :-

(1) It shall be the duty of the trustee or Collective Investment Management Company whose affairs are being inspected or investigated, and of every director, officer and employee thereof, to produce such books, accounts, records, and other documents in its custody or control and furnish him such statements and information relating to the activities as trustee or Collective Investment Management Company, as the inspecting officer may require, within such reasonable period as the inspecting officer may specify.

(2) The trustee or Collective Investment Management Company shall allow the inspecting officer to have a reasonable access to the premises occupied by it or by any other person on its behalf and also provide necessary infrastructure for examining any books, records, documents, and computer data in the possession of the trustee and Collective Investment Management Company or such other person and also provide copies of documents or other materials which in the opinion of the inspecting officer are relevant for the purpose of the inspection.

55. Submission of report to the Board :-

The inspecting officer shall, on completion of the inspection or investigation, submit a report to the Board: Provided that if directed to do so by the Board, he shall submit interim reports also.

56. Communications of findings, etc :-

(1) The Board shall, after consideration of the report referred to in Regulation 55, communicate the findings to the trustee or Collective Investment Management Company as the case may be, and give him an opportunity of being heard within fourteen days from the date of receipt of such communication.

(2) Without prejudice to its right to initiate necessary action under the Act and these regulations, the Board upon receipt of the reply, if any, from the trustee or Collective Investment Management Company may call upon it to take such remedial measures as the Board may direct in this behalf and may also initiate action under Chapter VIII of these regulations.

57. Appointment of Auditor and recovery of expenses :-

(1) Without prejudice to the provisions of Regulation 52, the Board shall have the power to appoint an auditor to inspect or investigate, as the case may be, into the books of accounts or the affairs of the trustee or Collective Investment Management Company in respect of schemes:

Provided that the Auditor so appointed shall have the same powers of the inspecting officer as stated in Regulation 52 and the obligation of the Collective Investment Management Company or trustee and their respective employees in Regulation 54, shall be applicable to the inspection under this regulation.

(2) Payment of inspection fees to the Board.-The Board shall be entitled to recover such expenses including fees paid to the auditors as may be incurred by it for the purposes of inspecting the books of accounts, records and documents of the trustee or Collective Investment Management Company.

CHAPTER 8

PROCEDURE FOR ACTION IN CASE OF DEFAULT

58. Competent Authority :-

In this Chapter, unless the context otherwise requires a competent authority means an officer of the Board not below the rank of Division Chief, whom the Board specifies as the competent authority for the purpose of Chapter VIII.

59. Suspension of Certificate :-

The competent authority may suspend a certificate of registration granted to a Collective Investment Management Company if such company :-

(a) contravenes any provision of the Act or these regulations:

(b) for the purposes of these regulations furnishes any information which is false or misleading or suppresses any material information;

(c) does not co-operate in any inspection, investigation or inquiry

conducted by the Board under the Act or these regulations;

(d) fails to comply with any directions issued by the Board under the Act or the regulations;

(e) fails to resolve the complaints of the investors or fails to furnish to the Board a satisfactory reply in this behalf when called upon to do so by the Board;

(f) commits a breach of any provision of the Code of Conduct specified in the Third Schedule;

(g) fails to pay the fees specified in the Second Schedule;

(h) commits a breach of the conditions of registration; or

(i) fails to make an application for listing or fails to list units of a scheme in a recognised stock exchange.

60. Cancellation of certificate :-

The competent authority may cancel the certificate of registration granted to a Collective Investment Management Company, if-

(a) the company has been guilty of fraud or has been convicted of an economic offence;

(b) the company has been guilty of repeated defaults of the nature specified in Regulation 59;

(c) the financial position of the company has deteriorated to such an extent that the competent authority is of the opinion that its continuance is not in the interest of the unit holders;

(d) the agreement for managing the scheme property has been terminated;

(e) the Company is declared insolvent or wound up.

61. Manner of making order of cancellation or suspension :-

No order of suspension or cancellation of certificate shall be made by the competent authority against the Collective Investment Management Company except after holding an enquiry in accordance with the procedure specified in Regulation 62:

Provided that the holding of an enquiry shall not be necessary in the following cases:

(a) where the company is declared insolvent or is wound up;

(b) where the company fails to pay fees to the Board;

(c) where the agreement for managing the scheme property is terminated;

(d) where the company surrenders its certificate of registration to the Board;

(e) where the company fails to maintain the net worth;

(f) where the number of independent directors falls below fifty per cent of the total number of directors:

Provided further that an opportunity of hearing shall be given to Collective Investment Management Company before any action is taken under the first proviso to this regulation.

62. Show-cause notice and order :-

(1) Where action under Regulation 59 or Regulation 60 is proposed, the competent authority shall issue to the Collective Investment Management Company, at its registered office or its principal place of business, a notice setting out the grounds on which the action is proposed to be taken against it and calling it to show cause against such action within a period of fourteen days from the date of receipt of the notice.

(2) The competent authority shall give a reasonable opportunity of hearing to the Collective Investment Management Company to enable it to make submissions in support of his reply to its notice issued under sub-regulation (1).

(3) Before the competent authority, the Collective Investment Management Company may either appear in person or through any person duly authorised on his behalf:

Provided that no advocate shall be permitted to represent the Collective Investment Management Company at the personal hearing:

Provided further that where an advocate has been appointed by the Board as a presenting officer under sub-regulation (5) of this regulation, the company shall have the right to present its case through an advocate.

(4) If it is considered necessary, the competent authority may request the Board to appoint a presenting officer to present its

case.

(5) The competent authority, after considering the reply of the Collective Investment Management Company, the evidence on record, and the submissions at the time of the personal hearing, if any, pass such order as it deems fit, including an order for the suspension or cancellation of the certificate.

(6) Every order made under sub-regulation (6) shall be self-contained and shall give reasons for the conclusions stated therein, including the justification for the penalty if any, imposed by that order.

63. Effect of suspension or cancellation of certificate of registration :-

(1) On and from the date of the suspension of the certificate, the Collective Investment Management Company shall cease to carry on any activity during the period of suspension, and shall be subject to the directions of the Board with regard to any records, documents, or assets that may be in its custody or control, relating to its activities.

(2) On and from the date of cancellation of the certificate, the Collective Investment Management Company shall, cease to carry on any activity.

64. Publication of order of suspension or cancellation :-

The order of suspension or cancellation passed under sub-regulation (6) of Regulation 62, shall be published by the Board in two newspapers of which at least one shall have nationwide circulation.

65. Directions by the Board :-

The Board may, in the interests of the securities market and the investors and without prejudice to its right to initiate action under this Chapter, including initiation of criminal prosecution under Section 24 of the Act, give such directions as it deems fit in order to ensure effective observance of these regulations, including directions:

(a) requiring the person concerned not to collect any money from investors or to launch any scheme;

(b) prohibiting the person concerned from disposing of any of the properties of the scheme acquired in violation of these regulations;

(c) requiring the person concerned to dispose of the assets of the scheme in a manner as may be specified in the directions;

(d) requiring the person concerned to refund any money or the assets to the concerned investors along with the requisite interest or otherwise, collected under the scheme;

(e) prohibiting the person concerned from operating in the capital market or from accessing the capital market for a specified period.

66. Action against intermediaries :-

The Board may initiate action for suspension or cancellation of registration of an intermediary holding a certificate of registration under Section 12 of the Act who fails to exercise due diligence in the performance of its functions or fails to comply with its obligations under these regulations:

Provided that no such certificate of registration shall be suspended or cancelled unless the procedure specified in the regulations applicable to such intermediary is complied with.

67. Appeal to the Central Government :-

¹ .-Any person aggrieved by an order of the Board made, on and after the commencement of the Securities Laws (Second Amendment) Act, 1999, (i.e., after 16th December 1999), under these regulations may prefer an appeal to a Securities Appellate Tribunal having jurisdiction in the matter"

1. Substituted for regulation 67 "Any person aggrieved by an order of the competent authority or the Board under these regulations: (a) suspending the certificate of registration; or (b) cancelling such certificate; or (c) issuing directions under Regulation 65 may prefer an appeal to the Central Government against such order, in accordance with the Securities and Exchange Board of India (Appeals to Central Government) Rules, 1993" by the Securities and Exchange Board of India (Appeal to the Securities Appellate Tribunal) (Amendment) Regulations, 2000

CHAPTER 9

EXISTING COLLECTIVE INVESTMENT SCHEMES

68. Existing schemes to obtain provisional registration :-

(1) Any person who has been operating a collective investment scheme at the time of commencement of these regulations shall be deemed to be an existing collective investment scheme and shall also comply with the provisions of this Chapter.

Explanation.-The expression 'operating a collective investment scheme' shall include carrying out the obligations undertaken in the various documents entered into with the investors who have subscribed to the scheme.

(2) An existing collective investment scheme shall make an application to the Board in the manner specified in Regulation 5.

(3) The application made under sub-regulation (2) shall be dealt with in any of the following manner:

(a) by grant of provisional registration by the Board under sub-regulation (1) of Regulation 71;

(b) by grant of a certificate of registration by the Board under Regulation 10;

(c) by rejection of the application for registration by the Board under Regulation 12.

69. No scheme to be launched until grant of registration :-

No existing collective investment scheme shall launch any new scheme or raise money from the investors even under the existing scheme, unless a certificate of registration is granted to it by the Board under Regulation 10.

70. Consideration of application for grant of provisional registration :-

(1) The applicant for the purpose of being considered eligible for the grant of provisional registration shall satisfy the Board that,-

(a) the schemes of the applicant are in the nature of collective investment schemes;

(b) the affairs of the applicant are not being conducted in a manner detrimental to the interest of existing investors;

(c) the applicant has at least 50% independent directors at the time of making the application;

Explanation.-"Independent directors" shall mean directors who are not associates of the persons operating the existing collective investment scheme.

(d) any person, directly or indirectly connected with it has not been granted registration by the Board under the Act;

(2) The Board for the purposes of grant of provisional registration may, inter alia, inspect the schemes, books of accounts, records and documents of the applicant.

(3) The Board shall recover from the applicant such expenses including fees paid to the auditor, appraising agency as may be incurred by it for the purposes of inspecting the schemes, books of accounts, records and documents of the applicant.

(4) The Board on being satisfied that the requirements specified in sub-regulation (1) are not fulfilled may reject the application and the applicant thereupon shall wind up its existing scheme (s) in the manner specified in Regulation 73.

71. Grant of provisional registration :-

(1) The Board after being satisfied that the conditions specified in Regulation 70 are fulfilled may grant provisional registration to the applicant subject to the following conditions, namely:

(a) the applicant shall get the existing schemes rated by a credit rating agency within ¹["two"] year from the date of grant of provisional registration;

(b) the applicant shall get the existing schemes audited by an auditor within a period of ²["two"] year from the date of grant of provisional registration;

(c) the applicant shall get existing schemes appraised by an appraising agency within a period of ³["two"] year from the date of grant of provisional registration;

(d) the applicant shall create a trust and appoint trustees in the manner specified in Chapter IV of these regulations within a period of ⁴["two"] year from the date of grant of provisional registration;

(e) the applicant shall comply with accounting and valuation norms in respect of schemes floated before the commencement of these regulations as specified in Part-II of the Ninth Schedule within a period of ⁵ ["two"] year from the date of provisional registration;

(f) the applicant shall meet the minimum net worth of Rupees one crore within one year from the date of grant of provisional registration which shall be increased by Rupees one crore each within two years, three years, four years and five years from the date of grant of provisional registration;

(g) the applicant shall not dispose of the scheme property except for meeting obligations arising under the offer document of the scheme;

(h) the applicant shall comply with the conditions specified in Regulation 11;

(i) such other conditions which the Board may impose.

(2) The applicant shall give a written undertaking to the Board to comply with the conditions specified in sub-regulation (1).

(3) The applicant who has been considered eligible for the grant of provisional registration by the Board shall pay provisional registration fee as per the Second Schedule.

(4) An applicant who after grant of provisional registration fails to comply with the conditions as specified in sub-regulation (1) and Regulation 9 shall not be considered eligible for the grant of certificate of registration under Regulation 10 and shall wind up the scheme in the manner specified in Regulation 73.

1. In Regulation 71, sub-regulation (1), clause (a) the word "one" shall be substituted by Securities and Exchange Board of India (Collective Investment Schemes) (Amendment) Regulations, 2002, Noti. No. F.No.SEBI/LE/586/2002, Gazette of India Exty., Part.II, Sec.3(ii), No.59, date.17/01/2002, part.2.

2. In Regulation 71, sub-regulation (1), clause (b) the word "one" shall be substituted by Securities and Exchange Board of India (Collective Investment Schemes) (Amendment) Regulations, 2002, Noti. No. F.No.SEBI/LE/586/2002, Gazette of India Exty., Part.II, Sec.3(ii), No.59, date.17/01/2002, part.2.

3. In Regulation 71, sub-regulation (1), clause (c) the word "one" shall be substituted by Securities and Exchange Board of India (Collective Investment Schemes) (Amendment) Regulations, 2002, Noti. No. F.No.SEBI/LE/586/2002, Gazette of India Exty., Part.II, Sec.3(ii), No.59, date.17/01/2002, part.2.

4. In Regulation 71, sub-regulation (1), clause (d) the word "one" shall be substituted by Securities and Exchange Board of India (Collective Investment Schemes) (Amendment) Regulations, 2002, Noti. No. F.No.SEBI/LE/586/2002, Gazette of India Exty., Part.II, Sec.3(ii), No.59, date.17/01/2002, part.2.

5. In Regulation 71, sub-regulation (1), clause (e) the word "one" shall be substituted by Securities and Exchange Board of India (Collective Investment Schemes) (Amendment) Regulations, 2002, Noti. No. F.No.SEBI/LE/586/2002, Gazette of India Exty., Part.II, Sec.3(ii), No.59, date.17/01/2002, part.2.

72. Registration to existing scheme :-

(1) An existing Collective Investment Scheme which satisfies the Board that the requirements specified in Regulation 9 and the conditions specified under Regulation 71 have been fulfilled, shall be granted a certificate of registration under Regulation 10 upon payment of registration fees as specified in Paragraph 2 of the Second Schedule and on such terms and conditions as may be specified by the Board.

(2) An existing collective investment scheme which has been granted certificate of registration under sub-regulation (1) may be allowed to float new schemes on such terms and conditions as may be specified by the Board.

73. Manner of repayment and winding up :-

(1) An existing collective investment scheme which:

(a) has failed to make an application for registration to the Board;
or

(b) has not been granted provisional registration by the Board; or

(c) having obtained provisional registration fails to comply with the provisions of Regulation 71;

(2) The existing collective investment scheme to be wound up under sub-regulation (1) shall send an information memorandum to the investors who have subscribed to the schemes, within two months from the date of receipt of intimation from the Board, detailing the state of affairs of the scheme, the amount repayable to each investor and the manner in which such amount is determined.

(3) The information memorandum referred to in sub-regulation (2) shall be dated and signed by all the directors of the scheme.

(4) The Board may specify such other disclosures to be made in the information memorandum, as it deems fit.

(5) The information memorandum shall be sent to the investors within one week from the date of the information memorandum.

(6) The information memorandum shall explicitly state that investors desirous of continuing with the scheme shall have to give a positive consent within one month from the date of the information memorandum to continue with the scheme.

(7) The investors who give positive consent under sub-regulation (6), shall continue with the scheme at their risk and responsibility:

Provided that if the positive consent to continue with the scheme, is received from only twenty five per cent or less of the total number of existing investors, the scheme shall be wound up.

(8) The payment to the investors, shall be made within three months of the date of the information memorandum.

(9) On completion of the winding up, the existing collective investment scheme shall file with the Board such reports, as may be specified by the Board.

74. Existing scheme not desirous of obtaining registration to repay :-

An existing collective investment scheme which is not desirous of obtaining provisional registration from the Board shall formulate a scheme of repayment and make such repayment to the existing investors in the manner specified in Regulation 73.

CHAPTER 10

MISCELLANEOUS

75. Power of the Board to issue clarifications :-

In order to remove any difficulties in the application or interpretation of these regulations, the Board shall have the power to issue clarifications and guidelines in the form of notes or circulars which shall be binding on the trustee or Collective Investment Management Company or any other intermediary in the capital market.

SCHEDULE 1

SCHEDULE

SCHEDULE 2

SCHEDULE

<p>Securities and Exchange Board of India \ \ \ (Collective Investment Scheme) Regulations, 1999 \ \ \ [Regulations 6, Regulation 10, Regulation 26(1), Regulation 59(g), Regulation 71(3), Regulation 72(1)] \ \ \ \ \ \ Fees 1. (a) Application fees payable by the applicant : Rupees Twenty-five Thousand (b) Provisional registration fees payable by : Rupees Five Lacs existing collective investment scheme (see para 2 below) (c) Registration fees payable by the applicant : Rupees Ten Lacs for grant of registration as collective investment management company (d) Filing fees for offer document : Rupees Twenty-five thousand 2. The applicant who has paid provisional registration fee of Rs 5 lacs under sub- paragraph (b) of Paragraph 1, shall pay remaining registration fee of Rs 5 lacs at the time of grant of registration. 3. The fees referred to in Paragraphs I and 2 above,</p>
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shall be paid by means of a bank draft in favour of "Securities and Exchange Board of India" at Mumbai or at the regional offices where the application for registration or draft offer document is submitted.

SCHEDULE 3

SCHEDULE

\\ \ Securities and Exchange Board of India \\ \ (Collective Investment Scheme) Regulations, 1999 \\ \ \ [Regulations 14(h), Regulation 21(8), Regulation 59(F)] \\ \ \ \ Code of conduct \1. Interests of all classes of unit holders to be protected.-The organisation, operation and management of the Collective Investment Scheme and the creation of assets therein shall be conducted- \ (a) in the interest of all classes of unitholders of the scheme; and \ (b) not merely in the interests of the directors of the company or associated persons or any special class of unitholders.