

## **SECURITIES LENDING SCHEME, 1997**

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## **SECURITIES LENDING SCHEME, 1997**

### SECURITIES LENDING SCHEME, 1997

#### **1. Preliminary :-**

This scheme shall be called the Securities Lending Scheme, 1997.

#### **2. Applicability :-**

It shall come into force on 6th February, 1997.

#### **3. Definitions :-**

(1) In this scheme, unless the context otherwise requires,-

(a) "approved intermediary" means a person duly registered by the Board under the guidelines/scheme through whom the lender will deposit the securities for lending and the borrower will borrow the securities ;

(b) "Board" means the Securities and Exchange Board of India (SEBI) established under section 3 of the Securities and Exchange Board of India Act, 1992;

(c) "borrower" means a person who borrows the securities under the scheme through an approved intermediary ;

(d) "corporate benefits" shall include dividends (gross), rights, bonus, redemption benefits, interest, or any other right or benefit accruing on the securities lent;

(e) "lender" means a person who deposits the securities registered in his name or in the name of any other person duly authorised on

his behalf with an approved intermediary for the purpose of lending under the scheme;

(f) "securities" has the meaning assigned to it in section 2 of the Securities Contracts (Regulation) Act, 1956 ;

(g) "scheme" means the Securities Lending Scheme, 1997, for lending of securities through an approved intermediary to a borrower under an agreement for a specified period with the condition that the borrower will return equivalent securities of the same type or class at the end of the specified period along with the corporate benefits accruing on the securities borrowed.

(2) Words and expressions used and not defined for the purpose of this scheme but defined in the Securities Contracts (Regulation) Act, 1956, or the SEBI Act shall have the meanings respectively assigned to them in that Act or rules and regulations made thereunder.

#### **4. Scheme :-**

(1) The lender shall enter into an agreement with the approved intermediary for depositing the securities for the purpose of lending through an approved intermediary as per the scheme and the borrower shall enter into an agreement with the approved intermediary for the purpose of borrowing of securities and as such there shall be no direct agreement between the lender and the borrower for the lending or borrowing of securities.

(2) The agreement between the lender and the approved intermediary shall provide that when the lender has deposited the securities with the approved intermediary under the scheme, the beneficial interest shall continue to remain with the lender and all the corporate benefits shall accrue to the lender.

(3) The lender shall be entitled to deposit only those securities registered in his name or in the name of any other person duly authorised on his behalf with the "approved intermediary" for the purpose of lending.

(4) The lending of securities under the scheme through an approved intermediary and the return of the equivalent securities of the same type and class by the borrower shall not be treated as disposal of the securities.

(5) The approved intermediary shall issue a receipt to the lender

acknowledging the deposit of the securities by the lender.

(6) The approved intermediary shall, unless otherwise provided in the agreement with the lender, guarantee the return of the equivalent securities of the same type and class to the lender along with the corporate benefits accrued on them during the tenure of the borrowing. Even in case of failure of the borrower to return the securities or corporate benefits the approved intermediary shall be liable for making good the loss caused to the lender.

(7) The approved intermediary may retain the securities deposited by the lender in its custody as a trustee on behalf of the lender.

(8) The approved intermediary shall in accordance with the terms of the agreement entered into with the lender, be entitled to lend the securities deposited by the lender to the borrower from time to time.

(9) Under the scheme, the title of the securities lent to the borrower shall vest with the borrower and the borrower shall be entitled to deal with or dispose of the securities borrowed in any manner whatsoever.

(10) The agreement between the borrower and the approved intermediary shall, inter alia, provide that the borrower shall have an obligation to return, the equivalent number of securities of the same type and class forward, to the approved intermediary within the time specified in the agreement along with all the corporate benefits which have accrued thereon during the period of borrowing.

(11) The agreement between the lender and the approved intermediary and the borrower and the approved intermediary shall also provide for the following terms and conditions:-

(a) the period of depositing/lending of securities,

(b) charges or fees for depositing/lending and borrowing,

(c) collateral securities for borrowing,

(d) provisions for the return including premature return of the securities deposited or lent ; and

(e) mechanism for resolution of the disputes through arbitration.

(12) The borrower shall not be entitled to discharge his liabilities of

returning the equivalent securities through payment in cash or kind.

(13) The approved intermediary shall be entitled to receive from the borrower collateral security and fees for lending the securities.

(14) The borrower shall deposit the collateral securities with the approved intermediary in the form of cash, bank guarantee. Government securities or certificate of deposits or other securities as may be agreed upon with the approved intermediary for the purpose of ensuring the return of the securities.

(15) When the approved intermediary returns the securities to the lender, the approved intermediary shall issue a receipt to the lender.

(16) The approved intermediary shall maintain a complete record of the securities deposited by the lender, securities lent to the borrower, the securities received from the borrower and the securities returned to the lender by the approved intermediary.

(17) In the event of the failure of the borrower to return the securities in terms of the agreement, the borrower shall become a defaulter and the approved intermediary shall have the right to liquidate the collateral deposited with it, in order to purchase from the market the equivalent securities of the same class and type for the purpose of returning the equivalent securities to the lender. The approved intermediary shall be entitled to take any action as deemed appropriate against the defaulting borrower to make good its loss, if any.

(18) The approved intermediary shall notify defaults by any borrower to the Board, the concerned stock exchange and the concerned authorities for initiation of appropriate action against the defaulter.

#### **5. Eligibility criteria for approved intermediary :-**

No person shall act as an approved intermediary unless a certificate of registration has been obtained from the Board. For the grant of a certificate of registration the Board shall take into account the following:

(a) whether the applicant is a person with minimum net worth of Rs. 50 crores;

(b) if the applicant is a clearing house or a clearing corporation and

it has the net worth specified by the Board after consulting the stock exchange;

(c) whether the applicant has adequate infrastructure facilities like office space, equipment and manpower experience in dealing in securities to effectively discharge its activities.

## **6. Obligations and responsibilities of approved intermediary**

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An approved intermediary shall comply with the following obligations and responsibilities:-

(1) The approved intermediary shall abide by the scheme and the guidelines issued by the Board from time to time with respect to its activity of securities lending.

(2) The approved intermediary shall comply with the requirement of eligibility criteria for the lender and the borrower with the eligibility criteria, if, specified by the Board.

(3) The approved intermediary shall specify in the respective agreement the fees payable to the lender and the fee to be charged from the borrower.

(4) The approved intermediary shall specify the amount and type of collateral acceptable for the purpose of securities lending as well as the norms for the valuation of securities. It may also specify the mechanism of sharing the income on collateral with the borrower.

(5) The approved intermediary at the request of the lender shall issue a receipt acknowledging the deposit of the securities by the lender. The receipt shall include the complete details of securities deposited such as name of security, quantity, face value, certificate number and folio number of the lender along with the date from when the lender has become the registered holder of the security. Similarly, when securities are returned to the lender by the approved intermediary, it shall issue a receipt containing the above details to enable the lender to use the same as a proof of continuity of his holdings.

(6) The approved intermediary shall maintain a complete record of the securities deposited by the lender, securities lent to the borrower, the securities received from the borrower and the securities returned to the lender by the approved intermediary. The records of the approved intermediary shall be open for inspection

by the Board or any other person duly authorised by the Board for this purpose.

(7) The approved intermediary shall maintain and make available to the Board such information, documents, returns and reports as may be specified from time to time.

(8) The approved intermediary shall abide by the code of conduct as may be specified by the Board.

(9) Nothing in this scheme shall exempt the approved intermediary from discharging any obligations placed on it by any law, regulations and guidelines.

## **7. Guidelines for approved intermediaries :-**

Terms of registration :

(a) The registration shall be for an initial period of three years.

(b) The approved intermediary as a condition of registration shall be required to pay fees as specified by the Board.

(c) The Board shall have the right to suspend/cancel the registration of the approved intermediary in case of violation of the terms of the scheme.

(d) Notwithstanding anything contained above, no action shall be initiated by the Board without following the principles of natural justice.