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**AMENDMENTS TO DELISTING REGULATIONS:
INTRODUCTION OF FIXED PRICE PROCESS FOR VOLUNTARY DELISTING |
SEBI APPROVES AMENDMENTS TO LISTING REGULATIONS, PIT
REGULATIONS TO FACILITATE EASE OF DOING BUSINESS**

Amendments to Delisting Regulations – Introduction of Fixed Price Process for Voluntary Delisting | SEBI Approves Amendments to Listing Regulations, PIT Regulations to Facilitate Ease of Doing Business

- A. **Amendments to SEBI Regulations:** The Securities and Exchange Board of India (“SEBI”) has recently approved a slew of measures to the regulatory landscape of listed companies at its board meeting conducted on September 30, 2024 ([available here](#)) with the objective of facilitating the ease of doing business. Amongst the plethora of changes, amendments to Securities and Exchange Board of India (Listing Obligations and Disclosure Requirements) Regulations, 2015 (“LODR Regulations”) and Securities and Exchange Board of India (Prohibition of Insider Trading) Regulations, 2015 (“PIT Regulations”) have been discussed hereinbelow.
- B. **Amendments to Delisting Regulations notified:** SEBI also recently notified amendments to the Securities and Exchange Board of India (Delisting of Equity Shares) Regulations, 2021 (“Delisting Regulations”) pursuant to suggestions of a subgroup of its Primary Market Advisory Committee made vide its consultation paper published on August 14, 2023 (“Consultation Paper”) ([available here](#)). Following are the significant changes introduced by the Securities and Exchange Board of India (Delisting of Equity Shares) (Amendment) Regulations, 2024 (“Amendment Regulations”):
- Introduction of fixed price process as an alternative to reverse book building process;
 - Changes to the method of computation of floor price and reference date for such computation;
 - Changes to the thresholds for counter offer mechanism under the reverse book building process; and
 - Introduction of delisting mechanism for investment holding companies.

The Amendment Regulations dated September 25, 2024 ([available here](#)) have come into force from the date of its publication in the Official Gazette i.e. **September 25, 2024**. Above changes to the Delisting Regulations are analysed in the table below.

A. AMENDMENTS TO SEBI REGULATIONS

- **LODR Regulations:** SEBI approved the following significant changes to the LODR Regulations, pursuant to their consultation paper dated June 26, 2024 ([available here](#)):

<p>Extension of timelines for disclosures to stock exchanges</p>	<ul style="list-style-type: none"> ▪ Instead of the earlier 30 minutes requirement for disclosure of outcome of board meetings, the timeline has been extended to 3 hours in the even that the board meeting concludes after the trading hours. ▪ For disclosure of litigations or disputes involving claims against the listed entity, timeline for such disclosure has been increased from erstwhile 24 hours to 72 hours, subject to maintaining such information in structured digital database as specified by SEBI.
	<p>ELP Comments</p>
	<p><i>Above extensions in timelines for disclosures to be made to stock exchanges will allow companies additional time to make such disclosures properly and provide adequate information to the market.</i></p>

<p>Change in thresholds for disclosures to stock exchanges</p>	<ul style="list-style-type: none"> ▪ Tax litigations and tax disputes are to be disclosed to stock exchanges on the basis of materiality. ▪ Only fines / penalties imposed that exceed the new materiality threshold (i.e. Rs. 1 lakh for sector regulators / enforcement agencies and Rs. 10 lakhs for other authorities) are to be disclosed as against the present requirement to disclose all fines / penalties, within 24 hours. <div style="background-color: #1a3d54; color: white; padding: 5px;">ELP Comments</div> <div style="background-color: #e6f2ff; padding: 5px;"><i>Increased thresholds come as a huge relief to listed companies which will now have clear guidance as to the materiality of such disclosures to the public.</i></div>
<p>Timeline to fill up vacancies on the board</p>	<ul style="list-style-type: none"> ▪ Additional time of 3 months has been provided to fill up (i) vacancies in board committees at listed entities and (ii) vacancies in board, committees and key managerial positions at listed entities coming out of the corporate insolvency resolution process under Insolvency and Bankruptcy Code, 2016.
<p>Detailed advertisement</p>	<ul style="list-style-type: none"> ▪ The earlier requirement of providing detailed advertisements of financial results in newspapers shall now be made optional for listed entities, considering the increased reliance on technology and reduced support on newspapers.
<p>Single filing system</p>	<ul style="list-style-type: none"> ▪ Introduction of single filing system for listed entities to file relevant reports, documents etc. on one exchange which will be automatically disseminated at the other exchange(s), as against the current requirement to making filings on both BSE and NSE platforms separately. <div style="background-color: #1a3d54; color: white; padding: 5px;">ELP Comments</div> <div style="background-color: #e6f2ff; padding: 5px;"><i>This change will logistically be beneficial for listed companies and will minimize redundant filings with both stock exchanges and decrease the time delay in uploading information by those exchanges.</i></div>
<p>Integration of periodic filings</p>	<ul style="list-style-type: none"> ▪ The various period filings that listed companies are required to make will now be categorized into two broad categories – Integrated Filing (Governance) and Integrated Filing (Financial), thereby reducing the number of filings done on a periodic basis.
<p>System driven disclosures</p>	<ul style="list-style-type: none"> ▪ System driven disclosure of shareholding pattern and revision in credit ratings by stock exchanges thereby reducing the reporting requirements on listed entities.

- **PIT Regulations:** SEBI has also approved changes to rationalize the scope of definitions of ‘connected persons’ and ‘immediate relatives’ to include persons who have access to or could reasonably be expected to have access to unpublished price sensitive information (“**UPS**I”):
 - ‘Connected Person’ to include (i) a firm or its partner or its employee in which a ‘connected person’ is also a partner; and (ii) a person sharing household or residence with a ‘connected person.
 - ‘Immediate Relative’ to be changed to ‘Relative’ which is to be defined to include:
 - (i) spouse of the person;

- (ii) parent of the person and parent of its spouse;
- (iii) sibling of the person and sibling of its spouse;
- (iv) child of the person and child of its spouse;
- (v) spouses of the persons listed at (iii) and (iv) above.

The above has been approved pursuant to changes suggested vide consultation paper dated July 29, 2024 ([available here](#)).

ELP Comments

By introducing changes to the above definitions, SEBI aims to make the PIT Regulations stricter thereby curbing the scope of insider trading and facilitating effective investigation and enforcement against insider trading.

B. AMENDMENTS TO DELISTING REGULATIONS

Following are the significant changes that have been introduced vide the Amendment Regulations:

Applicability	<ul style="list-style-type: none"> ▪ The Amendment Regulations shall apply to such delisting offers whose initial public announcement is made on or after the effective date i.e. September 25, 2024. ▪ However, acquirers may make the delisting offer in terms of the provisions of the existing Delisting Regulations till the 60th day from the date of publication of the Amendment Regulations. <div style="background-color: #003366; color: white; padding: 5px;">ELP Comments</div> <p><i>The immediate effectiveness of these regulations, coupled with a 60-day grace period, provides a balanced approach. It allows companies already in the process of delisting to continue under the old rules, while ensuring that new delisting offers quickly adopts the updated regulations. This approach minimizes disruption while promoting quick implementation of the new amendments.</i></p>
Fixed Price Delisting Process	<p>The fixed price delisting process has been introduced as an alternative to the reverse book building process in the new Regulation 20A. Following are the conditions for the fixed price process:</p> <ul style="list-style-type: none"> ▪ The acquirer shall provide a fixed delisting price which shall be at least 15% more than the floor price calculated in terms of regulation 19A (analysed hereinbelow); ▪ The acquirer shall be eligible to undertake delisting through fixed price process only if the shares of the company are frequently traded; and ▪ The acquirer shall be bound to accept the equity shares tendered or offered in the delisting offer, if the post-offer shareholding of the acquirer along with the shares tendered by the public shareholders reaches 90% at the fixed delisting price, offered by the acquirer. <div style="background-color: #003366; color: white; padding: 5px;">ELP Comments</div> <p><i>This much-awaited change to the Delisting Regulations will ensure more certainty in terms of deals and pricing by removing the speculative bidding and inflated exit prices</i></p>

	<p><i>linked to the reverse book building process. The fixed price route will help shareholders decide upfront whether they want to participate in the delisting offer or not. Additionally, a fixed price method will enable acquirers in securing funding for the delisting offer ahead of time.</i></p>
<p>Bidding/Tendering Mechanism under Regulation 17 of the Delisting Regulations</p>	<ul style="list-style-type: none"> ▪ Since the Delisting Regulations contemplated only for reverse book building process, bidding mechanism was the only mechanism in place post which shareholders could tender their shares as per the process provided in the Delisting Regulations. With the introduction of the fixed price process, Regulation 17 of the Delisting Regulations has been amended to incorporate the tendering mechanism pursuant to the fixed price process, in addition to bidding mechanism under the reverse book building process. ▪ The acquirer through the manager to the offer shall within 2 working days from the from the closure of the bidding period or the tendering period, make a public announcement in the same newspapers in which the detailed public announcement was made, of the success or failure of the fixed price delisting process or the reverse book building process and also disclose the discovered price accepted by acquirer, in the event of success of the reverse book building process. <div style="background-color: #1a3d54; color: white; padding: 5px;">ELP Comments</div> <p><i>By providing for both reverse book building and fixed price processes, SEBI is offering more flexibility in the delisting mechanism. This could cater to different market conditions and company preferences, potentially making the delisting process more accessible and efficient for a wider range of companies.</i></p>
<p>Floor Price</p>	<ul style="list-style-type: none"> ▪ Floor price under the Delisting Regulations was to be computed in accordance with the Securities and Exchange Board of India (Substantial Acquisition of Shares and Takeovers) Regulations, 2011 (“Takeover Code”). ▪ The Amendment Regulations have introduced a new comprehensive formula for calculating the floor price which includes factors such as volume weighted average price, highest price paid, adjusted book value, and independent valuation. This change was suggested vide the Consultation Paper whereunder it was reasoned that in case of a delisting offer, since the company does not continue to remain listed, it would be appropriate to take the fair market value of the assets of the company into consideration while determining the floor price. <div style="background-color: #1a3d54; color: white; padding: 5px;">ELP Comments</div> <p><i>Computation of floor price is no longer under the Takeover Code and stakeholders now only have to refer to the Delisting Regulations for such computation. Further, incorporating the adjusted book value certified by a valuer as an additional factor leads to a more precise and equitable assessment of the company’s value.</i></p>

<p>Reference Date for determination of floor price</p>	<ul style="list-style-type: none"> ▪ The Delisting Regulations provided that the reference date to calculate the floor price is the date on which the stock exchanges are required to be notified of the board meeting in which the delisting proposal was considered and approved. In terms of the Delisting Regulations, the board of directors of the company are required to approve the delisting proposal of the acquirer not later than 21 days from the date of the initial public announcement (“IPA”). ▪ The Amendment Regulation provides that the reference date for computing the floor price shall be: (i) the date of IPA made by the acquirer, if such an announcement was made before the close of market hours; or (ii) the trading day next to the date of the IPA, if such an announcement was made after the close of market hours or on a non-trading day. <div style="background-color: #1a3d54; color: white; padding: 5px;">ELP Comments</div> <div style="background-color: #e6f2ff; padding: 5px;"> <p><i>The said amendment is a welcome move and will help in eliminating any potential risks of abnormal trading activities during the period between the date of the IPA or the date of the prior intimation to the stock exchanges of the board meeting in which the delisting proposal will be considered, as applicable, and the date on which the stock exchanges are required to be notified of the board meeting in which the delisting proposal was considered and approved.</i></p> </div>
<p>Counter-offer provisions</p>	<ul style="list-style-type: none"> ▪ The Amendment Regulations has changed the thresholds for acquirer to make counter offers. The acquirer may make a counter offer to the public shareholders provided (i) the post-offer shareholding of the acquirer, along with the shares tendered by public shareholders, is not less than 75% (as compared to the erstwhile threshold of 90%); and (ii) not less than fifty percent of the public shareholding has been tendered. ▪ The counter offer price shall not be less than the higher of: (i) volume weighted average price of the shares tendered/offered in the reverse book building process; and (ii) the indicative price, if any, offered by the acquirer. <div style="background-color: #1a3d54; color: white; padding: 5px;">ELP Comments</div> <div style="background-color: #e6f2ff; padding: 5px;"> <p><i>Changes to the counter offer mechanism will boost the chances of successful voluntary delisting which may have otherwise failed due to inability to make counter offers by virtue of not reaching the required 90% threshold. Further the criteria for determining the counter offer price will help the acquirer to make a more meaningful counter-offer that may be accepted by the shareholders thus also increasing likelihood of successful delisting.</i></p> </div>
<p>Deposit in the escrow account</p>	<p>The Delisting Regulations requires the acquirer to open an interest bearing escrow account with a Scheduled Commercial Bank, not later than 7 working days from the date of obtaining the shareholders’ approval, and deposit therein an amount equivalent to 25% of the total consideration. With the introduction of the fixed price process, the Amendment Regulations provide for the following ways to calculate the total consideration for the purposes of this requirement:</p> <ul style="list-style-type: none"> ▪ in case delisting is proposed through reverse book building process - the total consideration shall be calculated on the basis of the number of equity shares

	<p>outstanding with the public shareholders multiplied with the floor price or the indicative price, if any given by the acquirer in terms of Regulation 20(4), whichever is higher;</p> <ul style="list-style-type: none"> in case delisting is proposed through the fixed price process; the total consideration shall be calculated on the basis of the number of equity shares outstanding with the public shareholders multiplied with the fixed delisting price offered by the acquirer. <p>The remaining 75% of the total consideration as calculated above shall be deposited in the escrow account before making the detailed public announcement.</p>
<p>Delisting of investment holding companies</p>	<p>An investment holding company (“IHC”) has been defined as “a company which holds investments in listed or unlisted companies or holding assets other than such investments.”</p> <p>The Amendment Regulations have introduced a new route for delisting of IHCs pursuant to a scheme of arrangement.</p> <p>For IHCs undergoing the delisting process under the Delisting Regulations, the process to do so has been provided as follows (subject to the conditions provided therein):</p> <ul style="list-style-type: none"> Transfer of shares: The listed IHC shall transfer the equity shares (value as calculated on a net of pro-rata liabilities) held by it in other listed companies, to its public shareholders in proportion to their shareholding; Payment for shares: The listed IHC shall make payment in cash (value as calculated on a net of pro-rata liabilities) in exchange for the underlying shares or investments made by such IHC in unlisted companies and other assets, if any, to its public shareholders in proportion to their shareholding; Reduction of capital: Public shareholding of the listed IHC shall be extinguished upon transfer of the underlying shares and payment in cash, pursuant to a scheme for selective reduction of capital under Section 66 of the Companies Act, 2013. Application for delisting: The listed IHC shall apply to the stock exchanges for delisting.

ELP Comments

The Amendment Regulations are a much awaited move by the regulator to streamline the delisting process, provide alternative mechanisms, and introduce specific provisions for investment holding companies. Overall, these changes will enhance the foreseeability of the delisting process and allow acquirers to offer public shareholders a substantial exit opportunity.

We trust you will find this an interesting read. For any queries or comments on this update, please feel free to contact us at insights@elp-in.com or write to our authors:

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