

# LAW Amendments & Extra Matters

**MAY/JUNE  
2014**

S.No.	TOPICS
1	Non-Applicability of Companies Act 2013 in May 2014 Exam
2	FEMA – Liberalized remittance Scheme
3	XBRL (extensive business reporting language)
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## 1. NON-APPLICABILITY OF COMPANIES ACT 2013 IN MAY 2014 EXAM

Companies Act 2013 is not applicable for May/June 2014 exams.

## 2. FEMA – LIBERALIZED REMITTANCE SCHEME

“Under the Liberalised Remittance Scheme, all resident individuals, including minors, are allowed to freely remit up to USD 75,000 per financial year w.e.f. 5th September 2013 (April – March) for any permissible current or capital account transaction or a combination of both.”

## 3. XBRL (EXTENSIVE BUSINESS REPORTING LANGUAGE)

Companies (Filing of Documents and Forms in Extensible Business Reporting Language) Rules, 2011 shall come into force with effect from the, 2<sup>nd</sup> December, 2012.

**Filing of Balance Sheet and Profit and Loss Account with Registrar for financial year commencing on or after 1st April, 2011-** The following class of companies have to file their Balance Sheet, Profit and Loss Account and any other document as required under section 220 of the Companies Act, 1956 with the Registrar using the Extensible Business Reporting Language (XBRL) Taxonomy for the financial year commencing on or after 1st April, 2011 with e-form **No. 23AC-XBRL and 23ACA-XBRL** specified under the Companies (Central Government) General Rules and Forms, 1956 namely:-

- (i) All companies **listed** with any Stock Exchange(s) in India and **their Indian subsidiaries** ; or
- (ii) All companies having **paid up capital of Rs 5 crore and above** ; or
- (iii) All companies having **turnover of Rs 100 crore and above** ; or

Provided that the companies in **Banking, Insurance, Power Sectors and Non-Banking Financial companies** are exempted for Extensible Business Reporting Language (XBRL) filing for the financial year commencing on or after 1st April, 201.

#### **XBRL Taxonomy - Advantages**

1. Instead of using different Account heads and Captions for presenting data in the Financial Statements, all companies will use same "Account heads and Captions".
2. Instead of filing Financial Statements in different formats with different Government Authorities like pdf, word, excel, html, etc; all companies will use same format ".xml" or ".xsd".
3. XBRL (.xml) is a machine readable language. So processing this information is extremely fast for the Government Authorities.
4. It is a readymade format and software made by different vendors. We just need to key in the Financial Statements in XBRL Taxonomy and it will automatically convert it into programming language. We don't need to be an IT expert to do this.

#### **What process is to be followed to file the reports in XBRL Format?**

The following steps have to be followed in sequence:

1. Mapping the individual cost elements of the company to the elements of the costing taxonomy.
2. Populating the relevant data in the software/filing tool.
3. Creating instance document.
4. Validating the Instance Document with the Validation Tool of MCA.
5. Use available tool to convert the Instance document to a human readable format and check correctness of data.
6. Attaching the Instance Document to the e-Form and filing on MCA Portal.

#### **Whether it is required to validate the instance document created before uploading the same on MCA portal?**

Yes, validating the instance document is a pre requisite before filing the Cost Audit Report and Compliance Report on MCA portal. A tool has been provided on the MCA portal for validating the generated XBRL instance document. You are required to download the tool from the portal and validate the instance document before uploading the same. The MCA XBRL validation tool can be downloaded from the XBRL website of the Ministry of Corporate Affairs. ([www.mca.gov.in/XBRL](http://www.mca.gov.in/XBRL))

#### **4. AMENDMENT IN SEBI ACT - NOTIFICATION**

##### **Qualification for appointment as Presiding Officer or Member of Securities Appellate Tribunal.**

Section 15M of the Securities and Exchange Board of India Act, 1992

(1) A person shall not be qualified for appointment as the Presiding Officer of the Securities Appellate Tribunal unless he—

(a) is a sitting or retired Judge of the Supreme Court or a sitting or retired Chief Justice of a High Court; or

**(b) is a sitting or retired Judge of a High Court who has completed not less than 7 years of service as a Judge in a High Court.**

**(1A)**

The Presiding Officer of the Securities Appellate Tribunal shall be appointed by the Central Government in consultation with the Chief Justice of India or his nominee.”

(2) A person shall not be qualified for appointment as member of a Securities Appellate Tribunal unless he is a person of ability, integrity and standing who has shown capacity in dealing with problems relating to securities market and has qualification and experience of corporate law, securities laws, finance, economics or accountancy:

**Provided** that a member of the Board or any person holding a post at senior management level equivalent to Executive Director in the Board shall not be appointed as Presiding Officer or Member of a Securities Appellate Tribunal during his service or tenure as such with the Board or within two years from the date on which he ceases to hold office as such in the Board.

#### **5. SEBI (ICDR) REGULATIONS – EXTRA TOPICS**

##### **INSTITUTIONAL PLACEMENT SCHEME**

##### **Difference between Qualified Institutions Placement and Institutional Placement Scheme**

##### **Qualified Institutions Placement**

This is done when the Listed Company **has already complied** with the requirement of minimum public shareholding specified in Rule 19 of the Securities Contracts (Regulation) Rules, 1957

##### **Institutional Placement Scheme**

This is done by the Listed Company for the purpose of achieving minimum public shareholding as specified in Rule 19 of the Securities Contracts (Regulation) Rules, 1957

**Minimum public shareholding.**

As per SCRA Rules 1957, Rule 19 regarding conditions of listing by Stock Exchange, one of the foremost conditions is:

At least 25% of equity shares issued by the company was offered and allotted to public in terms of an offer document.

**Institutional Placement Programme [SEBI (Issue of Capital and Disclosure Requirements) Regulations, 2009]:**

Institutional Placement Programme means a further public offer of eligible securities by an eligible seller, in which the offer, allocation and allotment of such securities is made only to qualified institutional buyers.

**(i) Conditions for institutional placement programme.**

1. An institutional placement programme may be made only after a special resolution approving the institutional placement programme has been passed by the shareholders of the issuer in terms of section 81(1A) of the Companies Act, 1956.
2. No party paid – up securities shall be offered.
3. The issuer shall obtain an in-principle approval from the stock exchange(s).

**(ii) Minimum number of allottees:**

1. The minimum number of allottees for each offer of eligible securities made under institutional placement programme shall not be less than ten. Further, no single allottee shall be allotted more than 25% of the offer size.
2. The qualified institutional buyers belonging to the same group or who are under same control shall be deemed to be a single allottee.

**(iii) Restrictions on size of the offer:**

1. The aggregate of all the tranches of institutional placement programme made by the eligible seller shall not result in increase in public shareholding by more than 10% or such lesser percent as is required to reach minimum public shareholding.
2. Where the issue has been oversubscribed, an allotment of not more than 10% of the offer size shall be made by the eligible seller.

**Note:-** “Eligible Seller” include listed issuer, promoter/promoter group of listed issuer.

**(iv) Transferability of eligible securities:**

The eligible securities allotted under institutional placement programme shall not be sold by the allottee for a period of one year from the date of allocation/allotment, except on a recognised stock exchange.

**(v) Period of Subscription and display of demand.**

The issue shall be kept open for a minimum of one day or maximum of two days.

**(vi) Pricing and allocation/allotment.**

1. The eligible seller shall announce a floor price or price band at least one day prior to the opening of institutional placement programme.
2. The eligible seller shall have the option to make allocation/allotment as per any of the following methods –
  - (a) proportionate basis;
  - (b) price priority basis; or
  - (c) criteria as mentioned in the offer document.
3. The method chosen shall be disclosed in the offer document.
4. Allocation/allotment shall be overseen by stock exchange before final allotment.

NCP Limited, a listed company proposes to issue equity shares under the "Institutional Placement Programme". Explain the provisions of SEBI (Issue of Capital and Disclosure Requirements) Regulations, 2009 on the following aspects:

- (i) Conditions for institutional placement programme.
- (ii) Minimum number of allottees.
- (iii) Restrictions on size of the offer.
- (iv) Transferability of eligible securities. (8 Marks) (Nov 2013)

**EXTRA POINT IN QUALIFIED INSTITUTIONS PLACEMENT****Minimum number of allottees.**

1. The minimum number of allottees for each placement of eligible securities made under qualified institutions placement shall not be less than:
  - (a) 2, where the issue size is  $\leq$  Rs. 250 crores;
  - (b) 5, where the issue size is  $>$  Rs. 250 crores;

Provided that no single allottee shall be allotted more than 50% of the issue size.
2. The qualified institutional buyers belonging to the same group or who are under same control shall be deemed to be a single allottee.

**Transferability of eligible securities:**

The eligible securities allotted under qualified institutional placement shall not be sold by the allottee for a period of 1 year from the date of allocation/allotment,

except on a recognised stock exchange.

## 6. SEBI (ICDR) REGULATIONS – EXTRA Q & A

### **Question 1(Done in class) – Book Building**

A company proposes to make a public issue of equity shares for financing its project through book building process. It proposes to fix the floor price of the share at Rs. 500 for a share of Rs. 10. Answer the following with reference to SEBI (ICDR) Regulations.

What is the price band that may be indicated in the red herring prospectus?

If the company wants to lower the floor price during the bidding period in order to increase the response to the issue, state the conditions subject to which such revision can be made.

### **Question 2 (Bigger Sum done in class) – Bonus Issue of Shares**

The Balance Sheet of Get Well soon Ltd as at 31.3.2009 disclosed the following details:

- (i) Authorised share capital Rs. 400 crores
- (ii) Paid up share capital Rs. 150 crores
- (iii) Reserves and surplus Rs. 750 crores

The company has issued in the year 2004, Fully Convertible Debentures of Rs. 100 crores which are due for conversion in the year 2009. The company proposes, after conversion of Debentures to issue Bonus shares in the ratio of 1:1. Explain briefly the requirements of the Companies Act, 1956 and the Securities and Exchange Board of India (ICDR) Regulations to be followed by the company in this regard.

### **Answer**

Chapter IX of SEBI (Issue of Capital and Disclosure Requirements) Regulations, 2009 contains the regulations (Regulations 92 to 95) for issue of bonus shares, following which M/s Get well soon Ltd. can make a bonus issue in the ratio of 1:1 as follows:

#### **1. The articles of M/s Get well Soon Ltd. must authorize it to issue the bonus shares.**

If there is no provision in the articles authorizing the company to issue bonus shares, firstly, the articles shall be amended by passing a special resolution.

#### **2. Steps for determining whether any increase in authorised share capital is**

**required.**

- (a) Paid up share capital as on 31st March, 2009 Rs. 150 crores.
- (b) Paid up capital (after conversion of Rs. 100 crores fully convertible debentures, assuming that these debentures shall be converted into share capital Rs. 100 crores) Rs. 250 crores.
- (c) Proposed bonus issue – 1 share for every 1 share held.
- (d) Post bonus issue capital. Rs. 500 crores.

Since the authorised share capital of the company is only Rs. 400 crores, it has to take steps to increase the amount to Rs. 500 crores or beyond by complying with the provisions laid down in section 94 and 97 of the Companies Act, 1956.

**3. Sources of bonus shares.**

Reserves and surplus (since free reserves built out of the genuine profits can be used for issue of bonus issue). Rs. 750 Crores. Since the source of issue of bonus shares (Rs. 750 crores) is sufficient to issue bonus shares (Rs. 250 crores), the proposed issue can be made.

**4. Other legal requirements for issue of bonus shares are as under.**

- (a) A resolution shall be passed by the board in a duly convened board meeting.
- (b) The bonus issue shall be made within fifteen days of passing the board resolution.
- 5. The bonus issue can be made if there is no default in payment of interest or principal in respect of fixed deposits and interest on existing debentures or principal on redemption thereof; and Payment of statutory dues of the employees such as contribution to provident fund, gratuity, bonus, etc.

**Question 3 – Preferential Issue of Shares (Simple – refer my Mat)**

Modern Chemicals Limited, a listed company, propose to make a preferential issue of equity shares to the promoters of the Company. You are required to answer the following with reference to the Securities and Exchange Board of India (Issue of Capital and Disclosure Requirements) Regulations, 2009:-

- (i) What are the conditions to be complied with by the Company to give effect to the proposed preferential issue?
- (ii) What is the price at which the proposed issue can be made?
- (iii) What is the lock-in period in respect of shares allotted on preferential basis to promoters ?

**Question 4 – Preferential Issue of Shares (Simple – refer my Mat)**

Excel Ltd., a public limited company listed with The Stock Exchange, Mumbai, wants to make issue of equity shares on preferential basis pursuant to a scheme approved under Corporate Debt Restructuring framework specified by Reserve Bank of India to various persons as may be selected by the Board of director of the company. Following information relevant to the preferential issue is available:

- (i) Total No. of equity shares to be issued: 50 Lac equity shares of Rs. 10 each out of which 30 lac equity shares will be allotted on 30th June, 2005 as fully paid up and balance 20 lac equity shares shall be allotted on the same date but paid up to Rs. 5 each and balance Rs. 5 shall be called upon at a later date and shall be paid up on 30th November, 2005.
- (ii) Out of the proposed allottees some persons are holding their shares in Excel Ltd. in physical form and not in dematerialised form and some persons had sold their entire shareholding in Excel Ltd. in January, 2005.
- (iii) The meeting of general body of shareholders for approving the preferential issue was held on 15th March, 2005.

Based on the above information you are required to answer the following queries with reference to the SEBI (ICDR) Regulations:

- (i) What would be the lock-in period for the shares allotted on preferential basis?
- (ii) Who are the persons not entitled for allotment of shares on preferential basis?

**Answer**

Accordingly, as given in the problem, persons are holding their shares in Excel Ltd. in physical form and not in dematerialised form and persons who had sold their entire shareholding in Excel Ltd. in January, 2005 shall not be eligible for preferential allotment of shares.

**Question 5 - Promoters' Contribution and Lock in period (Refer my Mat)**

An unlisted Company, having paid-up Share Capital of Rs. 3 crores consisting of 30,00,000 Equity Shares of Rs. 10 each fully paid-up, proposes to make an initial Public offer of 90,000 Equity Shares of Rs. 10 each at a premium of Rs. 5 per share, in July, 2004. The promoters acquired 10,00,000 shares on 1st January, 2000 and another 10,00,000 shares on 1st January, 2004 at face value:

- (i) What should be the minimum contribution that should be made by the promoters of the above company in order to comply with the guidelines issued by SEBI?
- (ii) State also the period for which the promoters are required to hold these shares and also the shares, if any acquired by the promoters in excess of the required minimum contribution.

**Answer**

The promoters of the issuer shall contribute in the public issue in case of an initial public offer, not less than 20% of the post issue capital. In the above case, pre-issued capital is Rs. 3 crores and proposed issue is Rs. 9 crores (90,000



equity shares of Rs. 10 each). Of the total post issue capital ie. Rs. 12 crores (Rs. 3 crores + Rs. 9 crores), the promoters have to contribute minimum of Rs. 2.4 crores (20% of Rs. 12 crores).

Of the total Rs. 2.4 crores issue of shares, if Rs. 2 crores issue already acquired by the promoters are taken into account, then the promoters are eligible to subscribe only for the balance of 4 lakh shares (ie. 2.4 crores – 2 crores = 0.4 crores or 4 lakh equity shares).

**Question 6 – Eligibility for IPO/FPO (Refer my Mat for latest Regulations)**

**The answer to the following questions needs to be based on the latest SEBI Regulations as given in my mat.**

Super Chemicals Limited, a closely held unlisted company, is in need of about Rs. 20 crores for financing its expansion programme. The company has not declared any dividend so far though it has made good profits from the commencement of commercial operations on 1st January, 1995. The paid-up capital of the company was increased to Rs. 3.5 crores on 1st April, 1998. The net worth of the company as per latest audited Balance Sheet as at 31st March, 2002 is Rs. 5 crores. The company seeks your advice as to its eligibility to raise Rs. 20 crores through public issue of equity shares at a premium. Advise with reference to relevant guidelines issued by SEBI.

**Answer: Write Regulation 26(1) and 26(2)**

**Question 7 – Eligibility for IPO/FPO (Refer my Mat for latest Regulations)**

Modern Technologies Limited, an unlisted company, proposes to finance its expansion programme by issuing equity shares to public. The company has been making good profits every year from the commencement of business on 1st April, 2003, but it has not declared dividend so far. The company was started with initial equity share capital of Rs. 3 cores in January, 2003. The paid-up equity share capital and free reserves as per the latest audited Balance Sheet as at 31st March, 2010 amounted to Rs. 5 crores and Rs. 10 crores respectively. State the conditions which are required to be fulfilled by an unlisted company under the Securities and Exchange Board of India (Issue of Capital and Disclosure Requirements) Regulations, 2009 in order to be eligible to make an initial public offer and also examine whether Modern Technologies Limited is eligible to make the proposed public issue.

**Answer: Write Regulation 26(1) and 26(2)**

**Question 8 – Eligibility for issue of Convertible Debentures – Regulation 26(1) and (2)**

M/s Ambitious Financiers Ltd., an existing unlisted Public Company, is planning to issue to the public five lakhs fully convertible debentures of Rs. 100 each. Explain the eligibility norms to be fulfilled by the company as per SEBI guidelines before making the issue

**Answer: Write Regulation 26(1) and 26(2)**

**Question 9 – Eligibility for IPO/FPO (Refer my Mat for latest Regulations)**

AVD Limited was incorporated on 1st April, 2006. The Company got its shares listed at Bombay Stock Exchange on 30th September, 2007. The Company at an Extra-Ordinary General Meeting held on 31st October, 2009, decided to go for public issue of equity shares to an extent of Rs. 300 crores. The net worth of the Company as per the audited Balance sheets in the financial years 2007-08 and 2008-09 was Rs. 50 crores and 60 crores respectively. During the financial year 2009-10 the Company had already issued equity shares amounting to Rs. 20 crores. There is no change in the name of the Company or its business activities during the financial year 2009-10. Referring to the guidelines issued by Securities and Exchange Board of India, advise the Company on the following:

- (i) Whether the Company can go ahead with the public issue of equity shares as stated above.
- (ii) What would be your advice in case the net worth of the Company as per audited balance sheets in the financial years 2007-08 and 2008-09 was Rs. 20 crores and 30 crores respectively?
- (iii) What would be the position in case the Company in question changed its name to AJD Limited during the year 2009-10, three months before filing the offer document and the revenue due to change of business activity suggested by the new name during the financial year 2009-10 was less than 40% of the total revenue for the financial year 2008-09 reckoned from the date of filing the offer document?

**Answer: Write Regulation 26(1)**

Applying the above regulations, the questions as asked in the problem can be answered as under:

1. There are two conditions in the guidelines as stated above viz. i) that the aggregate issue i.e. proposed + all the previous issues made in the same financial year should not exceed 5 times the net worth of the Company; ii) there is no change in the name of the issuer Company within the last 1 year. In the question the proposed issue of Rs. 300 crores + Previous issue

in the same financial year is Rs. 20 crores, making an aggregate of Rs. 320. Since the aggregate of the issue is more than 5 times of Net Worth, i.e. more than Rs. 300 crores, the proposed offer is not within the limit, company cannot proceed ahead with in the proposed issue of Rs. 300 crores.

2. In the second case the net worth is only Rs. 30 crores. 5 times of the net worth comes to Rs. 150 crores only. Since the aggregate of the proposed issue and the previous issue during the same financial year is Rs. 320 crores, which is exceeding the limits of Rs. 150 crores, as calculated above, the Company cannot proceed with the public issue of shares as proposed in the second case.
3. In the third case the offer cannot be made since the current year revenue is less than 50% of the total revenue of the previous year.

**Question 10 – Eligibility for IPO/FPO (Refer my Mat for latest Regulations)**

Following information is available from the Records of Star Chemicals & Engineering Ltd.:

- (i) The company is a closely held unlisted company.
- (ii) The paid up share capital of the company since 1st April, 1999 is Rs. 3.00 crores and its net worth as at 31st March, 2008 was Rs. 5.00 crores as per audited Balance Sheet.
- (iii) The Net Tangible Assets of the company as per last 3(three) audited Balance Sheets as at 31st March, 2005, 2006 and 2007 were Rs. 4.00 crores, 4.50 crores and 5.00 crores respectively, out of which monetary assets were less than Rs. 50 lacs in each of the three years.
- (iv) The company was incorporated in 1996 and commenced its business on 1st April, 1996 and since then it has earned good profits and it has not incurred any loss in any year in past.
- (v) The company has not declared any dividend so far, but it has an average pre-tax operating profit of rupees 17 crores, during the 3 most profitable years out of the immediately preceding 5 years.
- (vi) The name of the company was changed from Star Engineering Ltd. to its present name with effect from 1st January, 2007
- (vii) The company's turnover in the years ended 31st March, 2006, 2007 and 2008 was Rs. 20 crores, 30 crores and 35 crores respectively.

The company wants to make a public issue of shares to raise Rs. 20.00 crores by issuing equity shares at premium. For the purpose of including the information in the prospectus, the Company has prepared its accounts for 12 months ended 31st December, 2007 showing segment wise revenue which reveals that revenue from chemical segment is more than the revenue from Engineering segment.

You are required to state the relevant guidelines issued by SEBI and your conclusion whether the Company can make the desired issue of equity shares

based on the facts stated above.

**Answer: Write Regulation 26(1)**

In the given case,

- (a) The net tangible assets of the company as per the last three audited balance sheets as on 31st March, 2005, 2006 and 2007 were Rs. 4.00 crores, Rs. 4.50 crores, and Rs. 5.00 crores respectively. It satisfies the requirements of clause (a) as above as during each of the preceding three full years, it has net tangible assets, more than Rs. 3 crores and out of which the monetary assets are not more than 50 % of the net tangible assets. (In this case it has monetary assets less than Rs. 50 lacs).
- (b) It has an average pre-tax operating profit of rupees 17 crores > 15 crores, during the 3 most profitable years out of the immediately preceding 5 years.
- (c) The net worth of the company during the three preceding years was at least Rs. 1 crore in the preceding three full years. (paid-up capital since 1st April, 1999 is Rs. 3 crores and net worth as at 31st March, 2005 was Rs. 5.00 crores).
- (d) The aggregate of the proposed issue and all previous issues made in the same financial years does not exceed 5 times its pre-issue net worth. (Rs. 20 crores is the proposed issue and pre-issue net worth is Rs. 5 crores as on 31st March, 2007).
- (e) It is stated in the problem that the revenue earned by the company under its activity (chemical) the new name is more than from the old activity (engineering, it satisfied the condition (e) as stated above.

Hence Star Chemicals & Engineering Ltd can proceed to make a public issue of shares to raise Rs. 20.00 crores by issuing equity shares at premium.

<b>ANCHOR INVESTORS</b>
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- (a) An Anchor Investor shall make an application of a value of at least Rs. 10 crore in the public issue. **(Application Amount ≥ 10 crores)**
- (b) Allocation to Anchor Investors shall be on a discretionary basis and subject to the following:-

<b>Total Allocation Amount (Rs.)</b>	<b>Maximum Investors</b>	<b>Minimum Investors</b>
≤ 10 crores	2	NA
> 10 crores but ≤ 250 crores	15*	2*
> 250 crores	25*	5*

\*subject to minimum allotment of Rs. 5 crore per such investor

- (c) Upto 30% of the portion available for allocation to qualified institutional buyers shall be available to anchor investor(s) for allocation/allotment ("anchor investor portion").
- (d) One-third of the anchor investor portion shall be reserved for domestic mutual funds.
- (e) The bidding for Anchor Investors shall open one day before the issue opening date.

- (f) Anchor Investors shall pay on application the same margin which is payable by other categories of investors the balance, if any, shall be paid within two days of the date of closure of the issue.
- (g) Allocation to Anchor Investors shall be completed on the day of bidding by Anchor Investors
- (h) If the price fixed as a result of book building is higher than the price at which the allocation is made to Anchor Investor, the Anchor Investor shall bring in the additional amount. However, if the price fixed as a result of book building is lower than the price at which the allocation is made to Anchor Investor, the excess amount shall not be refunded to the Anchor Investor and the Anchor Investor shall take allotment at the price at which allocation was made to it.
- (i) The number of shares allocated to Anchor Investors and the price at which the allocation is made, shall be made available in public domain by the merchant banker before opening of the issue
- (j) There shall be a lock-in of 30 days on the shares allotted to the Anchor Investor from the date of allotment in the public issue.
- (k) Neither the merchant bankers nor any person related to the promoter/promoter group/merchant bankers in the concerned public issue can apply under Anchor Investor category. The parameters for selection of Anchor Investor shall be clearly identified by the merchant banker and shall be available as part of records of the merchant banker for inspection by the Board.

### **Question 11**

State the guidelines issued by SEBI in this regard in respect of the following matters:

- (i) Determination of issue price and that of successful bidders.
- (ii) Reservation for individual investors who have not participated in the bidding process and basis of allotment to such investors.

### **Answer**

#### **Determination of issue price:**

- (a) The issuer shall, in consultation with lead book runner, determine the issue price based on the bids received.
- (b) On determination of the price, the number of specified securities to be offered shall be determined (i.e. issue size divided by the price to be determined).
- (c) Once the final price (cut-off price) is determined, all those bidders whose bids have been found to be successful (i.e. at and above the final price or cut-off price) shall be entitled for allotment of specified securities.
- (d) Retail individual investors may bid at "cut off" price instead of their writing the specific bid price in the bid forms.
- (e) The lead book runner may reject a bid placed by a qualified institutional buyer for reasons to be recorded in writing provided that such rejection shall be made at the time of acceptance of the bid and the reasons therefor shall be disclosed to the bidders. Necessary disclosures in this regard shall also be made in the red herring prospectus.

#### **Allotment procedure and basis of allotment.**

1. The allotment of specified securities to applicants other than anchor investors shall be on proportionate basis within the specified investor categories and the number of securities allotted shall be rounded off to the nearest integer, subject to minimum allotment being equal to the minimum application size as determined and disclosed by the issuer:  
Provided that value of specified securities allotted to any person in pursuance of reservation made under regulation 42, shall not exceed two lakh rupees.

#### **Manner of Allotment/Allocation.**

- (a) Allotment to retail individual investors, non-institutional investors and qualified institutional buyers other than anchor investors shall be made proportionately.
- (b) In case of under subscription in any category, the undersubscribed portion in that category shall be allocated to the bidders as per disclosures made in the red herring prospectus; Provided that the unsubscribed portion in qualified institutional buyer category shall not be available for subscription to other categories, in case the book building process is undertaken for the purpose of compliance of eligibility conditions for public issue.

### **7. AMENDMENT IN SCRA ACT - NOTIFICATION**

In exercise of the powers conferred by section 28 (2) and section 16 (1) of the Securities Contracts (Regulation) Act, 1956, the Securities and Exchange Board of India declares that no person in the territory to which the said Act extends, shall, (except with the approval of SEBI) enter into any contract for sale or purchase of securities other than a contract falling under any one or more of the following. See below for details.

#### **Position prior to the notification:-**

2 types of securities contracts are allowed:-

2. Spot delivery contract;
3. Derivatives if traded on a recognized stock exchange.

#### **The notification adds new types of securities contracts to the above list:-**

1. contracts for pre-emption including RIGHT OF FIRST REFUSAL [ROFR], OR TAG-ALONG OR DRAG ALONG RIGHTS contained in shareholders agreements or articles of association of companies or other body corporate;
2. contracts in shareholders agreements or articles of association of companies or other body corporate, for purchase or sale of securities pursuant to exercise of an **OPTION** contained therein to buy or sell the securities, where-
  - (iii) the title and ownership of the underlying securities is held continuously by the selling party to such contract for a minimum period of one year from the date of entering into the contract;
  - (iv) the price or consideration payable for the sale or purchase of the underlying securities pursuant to exercise of any option contained therein, is in compliance with all the laws for the time being in force as applicable; and
  - (v) the contract is settled by way of actual delivery of the underlying securities;

Provided further that nothing contained in this notification shall affect or validate any contract which has been entered into prior to the date of this notification.

Provided also that any contract for sale or purchase of government securities, gold related securities, money market securities, contracts in currency derivatives, interest rate derivatives and ready forward contracts in debt securities entered into on the recognized stock exchange shall be entered into in accordance with, —

- (a) the rules or regulations or the bye-laws made under the Securities Contracts (Regulation) Act, 1956, or the Securities and Exchange Board of India Act, 1992 or the directions issued by the Securities and Exchange Board of India under the said Acts;
- (b) the rules made or guidelines or directions issued, under the Reserve Bank of India Act, 1934 or the Banking Regulations Act, 1949 or the Foreign Exchange Management Act, 1999, by the Reserve Bank of India;
- (c) the notifications issued by the Reserve Bank of India under the Securities Contracts (Regulation) Act, 1956.

**Explanation:- (It is not given by SEBI - I am putting it here only for your understanding) -**

**A pre-emption right**, or right of pre-emption, is a contractual right to acquire certain property newly coming into existence before it can be offered to any other person or entity.

**Right of first refusal (ROFR or RFR)** is a contractual right that gives its holder the option to enter a business transaction with the owner of something, according to specified terms, before the owner is entitled to enter into that transaction with a third party. In brief, the right of first refusal is similar in concept to a call option.

**A tag-along right** is a legal concept in corporate law. The right assures that if the majority shareholder sells his stake, minority holders have the right to join the deal and sell their stake at the same terms and conditions as would apply to the majority shareholder. This right protects minority shareholders. Tag-along rights are fairly standard terms in shareholders agreements.

**Drag-Along Right** is a legal concept in corporate law. The right assures that if the majority shareholder sells his stake, minority holders are forced to join the deal. This right protects majority shareholders. A Drag Along right gives the investing shareholder the right to force the other investor(s) to exit should the investing shareholder exit, once again, usually on the same price and terms. Drag-along rights are fairly standard terms in a stock purchase agreement. Drag-along rights typically terminate upon an initial public offering.