

Notified on October 28, 2014.

It is to provide for regulation of all schemes by companies for the benefit of their employees involving dealing in shares, directly or indirectly, with a view to facilitate smooth operation of such schemes while preventing any possible manipulation and matters connected therewith or incidental thereto.

Applicability

Schemes: (i) employee stock option schemes; (ii) employee stock purchase schemes; (iii) stock appreciation rights schemes; (iv) general employee benefits schemes; and (v) retirement benefit schemes.	Any company Whose shares are listed on a recognized stock exchange in India, and has a scheme: (i) for direct or indirect benefit of employees; and (ii) involving dealing in or subscribing to or purchasing securities of the company, directly or indirectly; and (iii) satisfying, directly or indirectly, any one of the following conditions: a. the scheme is set up by the company or any other company in its group; b. the scheme is funded or guaranteed by the company or any other company in its group; c. the scheme is controlled or managed by the company or any other company in its group.
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Non- Applicability

Shares issued to employees in compliance with the provisions pertaining to preferential allotment as specified in the Securities and Exchange Board of India (Issue of Capital and Disclosure Requirements) Regulations, 2009

Scheme may be implemented

- either directly
- By setting up an irrevocable trust(s) - the same has to be decided upfront at the time of taking approval of the shareholders for setting up the schemes.

Mandation for trust route, if the scheme involves secondary acquisition or gift or both

Single Trust

In case of a single trust, it shall keep and maintain –

- proper books of account,
- records and documents

for each such 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 each scheme.

Trust Deed

- SEBI may specify the minimum provisions to be included in the trust deed
- Deed shall be mandatorily filed with the stock exchange in India where the shares of the company are listed.

Non-eligibility for being a trustee if the person

- is a director, key managerial personnel or promoter of the company or its holding, subsidiary or associate company or any relative of such director, key managerial personnel or promoter; or
- beneficially holds ten percent or more of the paid-up share capital of the company.

Trustee Type	Minimum such required
Individual or OPCs	2
Corporate Entity	1

Powers, Rights and Duties of Trustees

- Not entitled to vote in representative capacity.
- Trustees to ensure that appropriate approval has been obtained from shareholders.

Trust

- The trust shall not deal in derivatives.
- The trust shall undertake only delivery based transactions for the purposes of secondary acquisition.
- The company may lend monies to the trust on appropriate terms and conditions to acquire the shares either through new issue or secondary acquisition, for the purposes of implementation of the scheme(s)

Disclosures

- The shareholding of the trust shall be shown as non-promoter and non-public' shareholding
 - Shares held by the trust shall not form part of the public shareholding which needs to be maintained at a minimum of twenty five per cent as prescribed under Securities Contracts (Regulation) Rules, 1957.

Acquisition Limits

- Secondary acquisition in a financial year $\leq$ 2% of the paid up equity capital as at the end of the previous financial year
- The total number of shares under secondary acquisition held by the trust shall at no time exceed

S. No.	Particulars	Limits
A	for the schemes enumerated in Part A, Part B or Part C of Chapter III of these regulations	5%
B	for the schemes enumerated in Part D, or Part E of Chapter III of these regulations	2%

C	for all the schemes in aggregate	5%
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*Above Limits shall include enhanced capital on account of bonus, rights or split.

*Limits shall be for aggregate of multiple trusts and schemes.

*Ceiling Limit not to apply where shares are allotted to the trust by way of new issue or gift from promoter or promoter group or other shareholders.

*If options, shares or SAR granted > number of shares that the trust may acquire through secondary acquisition, then such shortfall shall be made up by the company through new issue of shares to the trust.

- Un-appropriated inventory of shares which are not backed by grants, shall be appropriated within a reasonable period which shall not extend beyond the end of the subsequent financial year.

If not appropriated, then the same shall be disclosed to the stock exchange(s) at the end of such period and then the same shall be sold on the recognized stock exchange(s) where shares of the company are listed, within a period of five years from the date of notification of these regulations.

- Lock-in period – 6 months for such shares.

Off-market transfer of Shares

- transfer to the employees pursuant to scheme(s);
- when participating in open offer under the Securities and Exchange Board of India (Substantial Acquisition of Shares and Takeovers) Regulations, 2011, or when participating in buy-back, delisting or any other exit offered by the company generally to its shareholders.

Compensation Committee Constitution

- For administration and superintendence of the schemes
- Committee of such members of the board of directors of the company as provided under section 178 of the Companies Act, 2013
- It shall, *inter alia*, formulate the detailed terms and conditions of the schemes which shall include the provisions as specified by Board.
- It shall frame suitable policies and procedures to ensure that there is no violation of securities laws

Approval of Shareholders

Approval of shareholders by way of separate resolution in the general meeting shall be obtained by the company in case of:

- (a). Secondary acquisition for implementation of the schemes. Such approval shall mention the percentage of secondary acquisition (subject to limits specified under these regulations) that could be undertaken;
- (b). Secondary acquisition by the trust in case the share capital expands due to capital expansion undertaken by the company including preferential allotment of shares or qualified institutions placement, to maintain the five per cent. cap as prescribed under sub-regulation (11) of regulation 3 of such increased capital of the company;
- (c). Grant of option, SAR, shares or other benefits, as the case may be, to employees of subsidiary or holding or associate company;

(d). Grant of option, SAR, shares or benefits, as the case may be, to identified employees, during any one year, equal to or exceeding one per cent. of the issued capital (excluding outstanding warrants and conversions) of the company at the time of grant of option, SAR, shares or incentive, as the case may be.

Variation of terms of the schemes

- By Special Resolution in General Meeting
- The notice for passing special resolution for variation of terms of the schemes shall disclose full details of the variation, the rationale therefor, and the details of the employees who are beneficiaries of such variation

Non-transferability

- Not be transferable to any person
- No person other than the employee to whom the option, SAR or other benefit is granted shall be entitled to the benefit arising
- The option, SAR, or any other benefit granted to the employee shall not be pledged, hypothecated, mortgaged or otherwise alienated
- In the event of death of the employee, it shall vest in the legal heirs or nominees of the deceased employee
- In the event of permanent incapacity while in employment, as on the date of permanent incapacitation, shall vest in him on that day
- In the event of resignation or termination of the employee, all the options, SAR, or any other benefit, shall expire.

Certificate from auditors

The board of directors shall at each annual general meeting place before the shareholders a certificate from the auditors of the company that the scheme(s) has been implemented in accordance with these regulations and in accordance with the resolution of the company in the general meeting.

Accounting Policies

'Guidance Note on Accounting for employee share-based Payments' (Guidance Note) or Accounting Standards as may be prescribed by the Institute of Chartered Accountants of India (ICAI) from time to time, including the disclosure requirements prescribed therein.

Specific Schemes

	ESOS	ESPS	GEBS	Retirement Benefits Scheme	SAR
Pricing	Company will have freedom to determine exercise price.		Not Specified	Not Specified	Not Specified
Vesting period and Lock-in Period	Minimum 1 year vesting period. Company may specify Lock-in	Minimum 1 year vesting period. Lock in period – minimum 1 year	Not Specified	Not Specified	Minimum 1 year vesting period.

	Period.	from the date of allotment			
Rights	Of Option Holder The employee shall not have right to receive any dividend or to vote or in any manner enjoy the benefits of a shareholder in respect of option granted to him, till shares are issued upon exercise of option.	Not Specified	Not Specified	Not Specified	Of SAR Holder The employee shall not have right to receive dividend or to vote or in any manner enjoy the benefits of a shareholder in respect of SAR granted to him

Disclaimer

Matters expressed in this write-up are on the basis of our understanding of the Companies Act, 2013. While every care has been taken in the compilation of this information and every attempt made to present up-to-date and accurate information, we cannot guarantee that inaccuracies will not occur. We will not be held responsible for any claim, loss, damage or inconvenience caused as a result of any information within this write-up or any information accessed herein.

The above has been compiled by CS Reema Jain. Her areas of interest include Corporate and Allied Laws. For any queries or suggestions, she can be approached at reemajaincs@gmail.com.