17-Sept-2003 . 31

Person acting in concert (Imp)

Ankur Garg.

Reg-3 Few Purcase exempted from takeovers (Pref allotment delegated from Regu-3)

SEBI (Substantial Acquisition of Shares & Takeover) Reguln**s**, 1997

Lotuscopy-82

1. An acquirer, who acquires shares or voting rights which (together with shares or voting rights already held by him) would entitle him to more than 5 % shares or voting rights in a company shall disclose the aggregate of his shareholding or voting rights, in that company, to the company ***within four working days*** of the acquisition of shares or voting rights, as the case may be.
2. No acquirer shall agree to acquire shares or voting rights which (taken together with shares or voting rights, if any, held by him or by persons acting in concert with him), entitle such acquirer to exercise 15% or more of the voting rights in a company, unless such acquirer makes a ***public announcement (PA)*** to acquire shares of such company in accordance with the Regulations.
3. No acquirer (holding, not less than 15% but not more than 75% of the shares or voting rights in a company,) shall acquire, additional shares or voting rights entitling him to exercise more than 10% of the voting rights, in any period of 12 months, unless such acquirer makes a PA to acquire shares in acc. with regulns.
4. The minimum offer price shall be **the highest of** – Acquirer's offer = 375; PF I(s) wants = 425; final offer Price = 425 → Negotiated Price (This Price will also be applicable for Public)
   (a) the negotiated price under any agreement;
   (b) average price paid by the acquirer for acquisitions including by way of allotment in a public or rights issue, if any during ***12 months*** period prior to the date of PA;
   (c) the price paid by the acquirer under a preferential allotment made to him, at any time during ***12 months*** period up to the date of closure of the offer;
   (d) the average of the weekly high and low of the closing prices or the shares of the target company during the 26 weeks proceeding the date of PA. Avg 52 weeks
5. The public offer shall be made to the shareholders of the target company to acquire from then an aggregate minimum of 20 % of the voting capital of the company.
6. Public offer shall be opened within 60 days of the PA by acquirer company.
7. Letter of offer sent by acquirer company shall reach the shareholders of target company within 45 days after PA.
8. Within 14 days of the PA of the offer, the acquire must send a copy of the draft letter of offer to the target company at its registered office address, for being placed before the BOD and to all the STXs where the shares of the company are listed.
9. Any person other than the acquirer (who had made first the PA of the first offer,) make a PA of this offer for acquisition of some or all of the shares of the same target company. Such offer shall be deemed to be a competitive bid. ***No competitive bid shall be made during the offer period except during 21 days period from the PA of the first offer.***
10. Public offer shall be kept open for at least 30 days.
11. Upon the PA of a competitive bid or bids, the acquirer(s) who had made the PA(s) of the earlier offer(s), shall have the option to make an announcement revising the offer or withdrawing the offer with the approval of the SEBI.
12. Irrespective of whether or not there is competitive bid, the acquirer who has made the PA of offer, may make upward revisions in his offer in respect of the price and

the number of shares to be acquired, at any time up to 7 working days **prior to the date of the closure of the offer.**

13. Public offer, once made, shall not be withdrawn **except under** the circumstances mentioned in this regulations, namely –

Circumstances which 'Public offer' can be withdrawn.

(a) the withdrawals is consequent upon any competitive bid; ?

(b) the offer did not receive the minimum level of acceptances; ?

(c) the statutory approvals required have been refused;

(d) the sole acquirer, being a natural person has died, and

(e) such circumstances as in the opinion as ~~in the opinion of SEBI~~ merits withdrawal.

Opening of Escrow Account

Mandatory requirement

14. The acquirer shall deposit in an **Escrow Account** a sum equivalent to at least 25 % of the total consideration payable under the offer up to Rs. 100 crores; and 10 % of the consideration thereafter.

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15. In case, there is any upward revision of offer, consequent (Resulting) upon a competitive bid or otherwise, the value of the Escrow Account shall be increased to equal **at least 10 % of the consideration payable upon such revision.**

16. Every person, who holds more than 15 % shares or voting rights in any company, shall, within 21 days from the end of the financial year, make yearly disclosures to the company, in respect of his holdings as on 31st March each year.

Escrow Account

Offer size upto 100 Crore = 25%

if offer size is > 100 Crore then 10% of excess.

3rd Point
Escrow A/c
13 (a) Point
13 (b) Point
Acquirer Can't achieve further 20%
4 (d)
9th Point

Transactions which are exempt from Sebi takeover code :- (In Dec 2003)

1) Allotment to the underwriters pursuant to any underwriting agreement.

2) Acquisition of share by way of transmission on succession or inheritance.

3) Acquisition of shares by Govt. Co(s) within the meaning of Sec-617 of Co.(s) act.

4) Acquisition of shares in Companies whose shares are not listed on any stock exchange.

5) Preferential allotment subject to prescribed stipulations.

6) Allotment made in a public issue subject to prescribed stipulations.

7) Allotment pursuant to an appl^{n} made by the SH. for right issue to the extent of his entitlement.

8) Transfer of share pursuant to a scheme :-

(i) framed under Sec-18 of SICA 1985

(ii) of arrangement or reconstruction including amalgamation or merger or demerger under any law or regulation, Indian or foreign.

9)