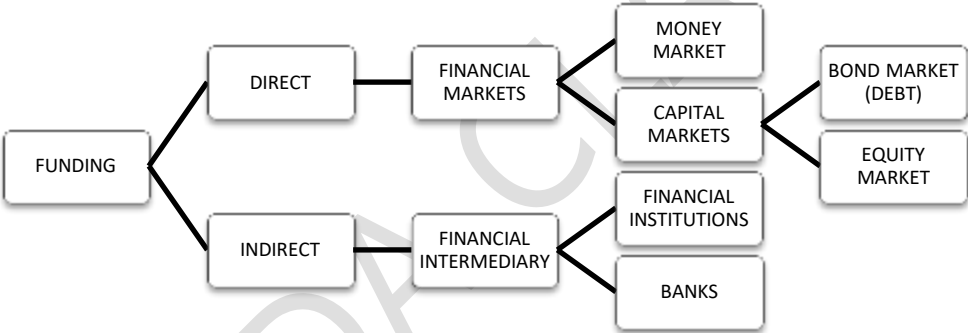


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UNIT 1: OVERVIEW OF CAPITAL MARKET

INTRODUCTION	Every economy needs a sound financial system for encouraging savings habits, mobilizing savings from households and other segments and allocating savings into productive usages such as trade, commerce and manufacture etc. Financial systems cover both cash and credit transactions. All financial transactions are dealt with by Cash payment or issue of negotiable instruments like cheque, bills of exchange, hundies, etc. Thus, a financial system is a set of institutional arrangements through which financial surpluses are mobilized from the units generating surplus income and transferring them to the others in need of them. In a nutshell, financial market, financial assets, financial services and financial institutions constitute the financial system. A country's financial systems include its banks, securities markets, pension and mutual funds, insurers, market infrastructures, central bank, as well as regulatory and supervisory authorities. These institutions and markets provide a framework/platform for carrying out economic transactions and monetary policy and it also helps in mobilizing savings into investment.  <pre> graph LR FUNDING --> DIRECT FUNDING --> INDIRECT DIRECT --> FM[FINANCIAL MARKETS] FM --> MM[MONEY MARKET] FM --> CM[CAPITAL MARKETS] CM --> BMD[BOND MARKET DEBT] CM --> EM[EQUITY MARKET] INDIRECT --> FFI[FINANCIAL INTERMEDIARY] FFI --> FI[FINANCIAL INSTITUTIONS] FFI --> BANKS </pre>
FINANCIAL SYSTEM	Functions of a Good Financial System: (i) Regulation of Currency; (ii) Banking Functions; (iii) Performance of Agency Services and Custody of Cash Reserves; (iv) Management of National Reserves of International Currency; (v) Credit Control; (vi) Administering Fiscal, National and Monetary Policy; (vii) Supply and Development of Funds for Productive use; (viii) Maintaining Liquidity. Keys for ensuring the Long Term Growth of the Financial System: (i) Education of investors; (ii) Giving autonomy to Financial Institutions to become efficient under competition; (iii) Consolidation through mergers; (iv) Facilitating entry of new institutions to add depth to the market; (v) Minimizing regulatory measures and market segmentation.
ORGANIZATIONAL STRUCTURE OF FINANCIAL SYSTEM	The organizational structure of the financial systems is divided into various components: (i) Financial Markets (ii) Products & Market Participants
FINANCIAL MARKETS	The financial markets facilitate the efficient transfer of idle resources to others who have need of such resources. It channelizes savings into investment. The financial market contributes to economic development of a country which depends on the rates of savings and investments. In other words, Financial Market is a market in which people trade financial securities

	and commodities at low transaction costs and at prices that reflect supply and demand. Securities include stocks and bonds, and commodities. ➤ <u>Financial market is a place which facilitates:</u> (i) The raising of capital (in the capital markets) (ii) The transfer of risk (in the derivatives markets) (iii) The transfer of liquidity (in the money markets) (iv) International trade (in the currency markets) The two major components of a financial market are Money market and Capital Market.
MONEY MARKET (less than 1 year)	Money Market means a market where borrowers and lenders exchange short – term (not more than 1 year) funds to solve their liquidity needs. It is market where money is being traded as a commodity to fulfil the short – term requirements of banks, financial institution and the Govt. Money market instruments include treasury bills, commercial papers, certificate of deposits and bills of exchange. Domestic money market in India is MIBOR whereas LIBOR is an international money market which decides interest rate. ➤ <u>MIBOR</u>: Mumbai Inter – Bank Offered Rate (Benchmark for India Money Market) ➤ <u>LIBOR</u>: London Inter – Bank Offered Rate (Benchmark for International Money Market) Money markers allow banks to manage their liquidity as well as provide the Central bank means to conduct monetary policy. Money markets are markets for debt instruments with a maturity up to 1 year. In short, a market for the exchange of the short – term funds is known as the money market and solves the liquidity needs of the lenders.
CAPITAL MARKET (Long Funds)	Term The market which involves all kinds of lending and borrowing that are direct or indirect claims to the capital is known as capital market. In other words, Capital markets are financial markets for the buying and selling of long – term debt or equity backed securities. Example of Capital Market Transactions: When a company wants to raise long – term finance (i. e. equity shares, debentures & preference etc.), it often sells equity shares to the capital markets. It is a capital market transaction. ➤ <u>Need for Capital Market:</u> 1. This market plays an important role in promoting & sustaining the growth of an economy. 2. It is a tool for mobilizing funds for private and government sector organization. 3. It provides an effective source of investment in the economy. 4. A well – functioning capital market tends to improve information quality as it plays a major role in encouraging the adoption of stronger corporate governance principles, thus supporting a trading environment, which is founded on integrity. 5. Capital market has played a crucial role in supporting periods of technological progress and economic development throughout history. 6. Capital markets make it possible for companies to give shares to their employees via Employee Stock Option Plans (ESOPs). 7. Capital markets provide a currency for acquisitions via share swaps. 8. Capital markets provide an excellent route for disinvestments to take place. 9. Venture Capital and Private Equity funds investing in unlisted companies get an exit option when the company gets listed on the capital markets. ➤ <u>Functions of the Capital Market:</u> 1. Mobilization of savings & acceleration of Capital 2. Facilitate buyer and seller for sale and buy of securities 3. Promotion of Industrial growth

	Securities Market: It is the market for those financial instruments that are easily transferable by sale. It has two inter – dependent and inseparable segments i. e. Primary Market and Secondary Market. Primary market provides platform for mobilizing funds by the Companies from General Public and Secondary Market provides platform for selling and buying the issued securities from one investor to another via stock market. ❖ PRIMARY MARKET It is a market for those instruments that are issued for the first time. It is the market for the mobilization of resources through the issue of new securities. It is through the primary market that the funds flow for the productive purposes from the investors to entrepreneurs. Example: Sale of equity shares in an IPO (Initial Public Offer) by a company. ❖ SECONDARY MARKET This market provides a platform for sale or purchases of already issued securities in the Stock Market by the existing investors. This market provides liquidity/exit route to the existing investors. Example: Trading of shares via Stock Market after public issue from one person to another.
PRODUCT AND MARKET PARTICIPANTS	The various products of the securities markets include shares, scrips, stocks, bonds, debentures, debentures stocks etc. and the principle of demand and supply determines the prices of these products. The major investors in the securities markets include individuals, companies, government bodies etc. These participants of the securities market are divided into following three categories: (i) Issuer of Securities; (ii) Investor in Securities; and (iii) The Intermediaries Securities market and economic growth The following points are worth noting in connection with the securities market and the economic growth of the country: (i) <u>Securities Market acts as a Bridge:</u> The securities market acts as a bridge between the person having surplus fund for investment and the persons who are in need of them; (ii) <u>International Linkage:</u> The advent of globalization has connected the domestic market with the rest of the world; (iii) <u>Improved Investment Allocation:</u> The efficiency with which the existing capital stock is employed is very well monitored by the securities market; (iv) <u>Standardized Products and Reduction in Costs:</u> Due to the increase in competition, the quality of the products is increasing and consequently their cost is decreasing. The competition is constantly increasing because a wide range of funds are available through the financial markets. (v) <u>Development Benefits:</u> The securities market provides financial opportunities to the persons having ideas and talent for developing a business. Subsequently, it enhances the economic growth and leads to development. MARKET REGULATION (June 2007) In India, we have the following regulatory framework: ❖ The SEBI Act, 1992: The SEBI was established for the purposes to: (i) Product the interests of investors in securities market;

	(ii) Promote the development of securities market; (iii) Regulate the securities market. ❖ <u>The Securities Contract (Regulation) Act, 1956:</u> Provides Direct & Indirect control in all aspects of securities trading & gives jurisdiction over: (i) Stock exchanges through a process of recognition and continued supervision; (ii) Contracts in securities; (iii) Listing of securities on stock exchanges. As a condition of recognition, a stock exchange must comply with the prescribed conditions of Central Government. ❖ <u>The Depositories Act, 1996:</u> This Act provides for the establishment of Depositories in securities with the objective of – (i) Making the securities of public limited companies freely transferable in electronic mode; (ii) Dematerialization of securities; (iii) Maintenance of ownership records in a book entry form. In India, there are two depositories (NSDL – National Securities Depositories Ltd. and Central Depository Services Ltd.) registered with SEBI. ❖ <u>The Companies Act, 2013:</u> The Act deals with: (i) The issue, allotment and transfer of securities; (ii) Managing various aspects relating to company management; (iii) Regulating the underwriting and use of premium and discount on issues. ❖ <u>Regulators:</u> The Securities Market is being regulated by the following regulators:- (i) Department of economic affairs; (ii) Ministry of Corporate Affairs (MCA) in connection with the Companies Act, 2013; (iii) Reserve Bank of India (RBI) in connection with the receipt of foreign remittances in the form of Securities; (iv) Securities Exchange Board of India (SEBI) in connection with Indian Securities Market including Primary Market & Secondary Market.
SECURITIES MARKET REFORMS & REGULATORY MEASURES (June 2009)	The Govt. of India and SEBI has taken a number of measures in order to improve the working of securities market. In this regard, the major reforms undertaken in capital market of India include: ❖ <u>Control over issue of Capital:</u> Earlier, the capital market was regulated by the Capital Issues (Control) Act, 1947. In 1992, the SEBI Act, 1992 was enacted by the Parliament of India to protect the interests of investors and also to regulate the capital market. The SEBI Act, 1992 replaced the earlier law i. e. the Capital Issues (Control) Act, 1947. ❖ <u>Establishment of regulator:</u> A major initiative of regulation was the establishment of a statutory autonomous agency i. e. SEBI in year 1992. ❖ <u>Screen Based Regulator:</u> To make the capital market transparent, a major initiative was a nation – wide on – line fully – automated screen based trading system (SBTS) where a member can punch into the computer quantities of securities and the prices at which he likes to transact and the transaction is executed as soon as it finds a matching sale or buy order from a counter party. ❖ <u>Depositories Act, 1996:</u> The earlier settlement system gave rise to settlement risk. This was due to the time taken for settlement and due to the physical movement of

	paper. Further, the transfer of shares in favour of the purchaser by the company also consumed considerable amount of time. To obviate these problems, the Depositories Act, 1996 was passed to provide for the establishment of depositories in securities. ❖ Corporate Governance: The SEBI amended Clause 49 of the Listing Agreement and inserted the new provisions relating to the Corporate Governance. The major changes in the new Clause 49 include amendments/additions to provisions relating to definition of independent directors, strengthening the responsibilities of audit committees, improving quality of financial disclosures etc. Certain non – mandatory clauses are also included like whistle blower policy. ❖ Green Shoe Option: As a stabilization tool for post listing price of newly issued shares, SEBI has introduced the green shoe option facilities in IPOs. ❖ Grading for Initial Public Offerings: Grading of all IPOs was made mandatory. The grading would be done by credit rating agencies, registered with SEBI. It would be mandatory to obtain grading from at least one credit rating agency. The grading would be disclosed in the prospectus, abridged prospectus and in every advertisement for IPOs.
FEATURES OF DEVELOPED CAPITAL MARKET: THE INTERNATIONAL ORGANIZATION OF SECURITIES COMMISSION (IOSCO) (Dec 2014)	The International Organization of Securities Commissions (IOSCO), established in 1983 for the purpose to bring together the world's securities regulators. It is a recognized global standard setter for the securities sector. IOSCO develops, implements, and promotes adherence to internationally recognized standards for securities regulation, and is working intensively with the G20 and the Financial Stability Board (FSB) on the global regulatory reform agenda. IOSCO's membership regulates more than 95% of the world's securities markets. Its members include over 120 securities, regulators and 80 other securities markets participants (i. e. stock exchanges, financial regional and international organizations etc.). IOSCO is the only international financial regulatory organization which includes all the major emerging markets jurisdictions within its membership. IOSCO provides comprehensive technical assistance to its members which regulate the emerging market. <u>IOSCO OBJECTIVES</u> IOSCO has been established for achieving the following objectives: (i) <u>To Protect Investor:</u> To enhance investor protection and promote investor confidence in the integrity of securities markets, through strengthened information exchange and cooperation in enforcement against misconduct and in supervision of markets and market intermediaries; (ii) <u>To Ensure that Markets are Fair, Efficient and Transparent:</u> To cooperate in developing, implementing and promoting adherence to internationally recognized and consistent standards of regulation, oversight and enforcement in order to protect investors, maintain fair, efficient and transparent markets, and seek to address systemic risks; and (iii) <u>To Reduce Systemic Risk:</u> To reduce systemic (universal) risk, IOSCO exchanges information at both global and regional levels on their respective experiences in order to assist the development of markets, strengthen market infrastructure and implement appropriate regulation. <u>MEMBERSHIP OF IOSCO: (DECEMBER 2017)</u> There are three types of memberships of IOSCO based on the different approaches to the securities market issues.

	ORDINARY MEMBER	Ordinary members of IOSCO are those members who are primarily working as regulators of securities or futures markets in a jurisdiction and each ordinary member has one vote. Example: Securities and Exchange Board of India (SEBI) is the regulator of Indian Securities Market. Securities Exchange Commission is the regulator of USA Securities Market. In other words, all governmental body which are responsible for regulation of securities can only be entered as ordinary member under the category. The ordinary membership of a self – regulatory body admitted to IOSCO will lapse if a governmental regulatory body from the same jurisdiction becomes the ordinary member for that jurisdiction.
	ASSOCIATE MEMBER	Associate members of IOSCO are those members which are other securities and/or futures regulators in a jurisdiction, if that jurisdiction has more than one. Example: The Commodity Futures Trading Commission, the International Commission of Securities and the North American Securities Administrators' Association in the United States are associate members of IOSCO with the U. S. Securities and Exchange Commission being the ordinary members for the United States. Note: Associate members have no rights to vote in IOSCO. A self-regulatory body is not eligible for associate membership.
	AFFILIATE MEMBER	Affiliate members of IOSCO are those members other than the regulators. Example: Stock exchanges, self – regulatory organizations, and various stock market industry associations. Affiliate members have no voting rights. In other words, A self – regulatory body (SRO), or an international body, with an appropriate interest in securities regulation is eligible for this category of membership. Note: Currently, IOSCO has 145 members: 118 ordinary members, 12 associate members and 15 affiliate members.
MULTILATERAL MEMORANDUM OF UNDERSTANDING CONCERNING CONSULTATION AND CO – OPERATION AND EXCHANGE OF INFORMATION (MMoU)	MMoU is a document signed by the members of IOSCO for cross – border co – operation to combat violations of securities and derivatives laws. In other words, it is an arrangement among the member countries of IOSCO for sharing information while investigating possible securities law violations. An international benchmark for co – operation and information sharing that builds on the many existing IOSCO Resolutions and Principles to enhance the level of co – operation and information exchange to combat cross – border fraud and other securities violations. Therefore, it is a commitment among signatories to provide assistance and co – operation in accordance with the terms and conditions set out in the MMoU. What are the objectives of the MMoU? (i) Enhancing jurisdictions' ability and willingness of Co – operation internationally. (ii) To better ensure compliance with and enforcement of securities laws and regulations. (iii) Enhancing the ability of regulators to detect and deter cross – border financial crime.	

AMIT TALDA CLASSES

UNIT 2: CAPITAL MARKET INSTRUMENTS

INTRODUCTION	Capital market is a market for buying and selling of debt or capital based securities. In other words, whatever we are buying or selling in the capital market is known as Capital Market Instruments. Capital Market Instruments like equity shares, preference shares, debentures, bonds & derivatives etc. These instruments are being issued by the corporate sector to raise funds on the basis of: (i) Investors Preference, and (ii) The Regulatory Framework Factors effecting the preferences for choosing any instruments : <table border="1" data-bbox="418 512 1500 785"> <thead> <tr> <th>For Issuer</th><th>For Investor</th></tr> </thead> <tbody> <tr> <td>Cost</td><td>Return</td></tr> <tr> <td>Post tax cost of capital</td><td>Tax on return received</td></tr> <tr> <td>Servicing</td><td>Yield</td></tr> <tr> <td>Debt Equity Ratio & Debt Service capabilities</td><td>Risk Reward Ratio</td></tr> <tr> <td>Ceding the control in case of equity</td><td>Gaining the control in case of equity</td></tr> <tr> <td>Company Law, SEBI regulations</td><td>Marketable & Liquidity</td></tr> </tbody> </table>	For Issuer	For Investor	Cost	Return	Post tax cost of capital	Tax on return received	Servicing	Yield	Debt Equity Ratio & Debt Service capabilities	Risk Reward Ratio	Ceding the control in case of equity	Gaining the control in case of equity	Company Law, SEBI regulations	Marketable & Liquidity
For Issuer	For Investor														
Cost	Return														
Post tax cost of capital	Tax on return received														
Servicing	Yield														
Debt Equity Ratio & Debt Service capabilities	Risk Reward Ratio														
Ceding the control in case of equity	Gaining the control in case of equity														
Company Law, SEBI regulations	Marketable & Liquidity														
CLASSIFICATION	We can classify all Capital Market Instruments into three Categories: <u>PURE INSTRUMENT:</u> It is a financial instrument which is created without mixing the properties/features of any other financial instruments. In other words, it is a financial instrument which is being issued by the issuer (Company/Government) with original features. Example: Equity shares, preference shares, debentures and bonds which are being issued with their basic features intact without mixing features of other instruments. <u>HYBRID INSTRUMENT: (JUNE 2009)</u> It means a financial instrument which is created by mixing of features of two or more types of financial instruments. It has dual character like debt may be issued with the features of equity or equity may be issued with the features of debt. Example: Convertible preference shares, Cumulative convertible preference shares, Convertible debentures, partly convertible debentures and warrants convertible into debentures. <u>DERIVATIVES INSTRUMENTS:</u> It is a financial instrument whose value is based on another security. Derivative is a contract which derives its values from value of other assets. In other words, it does not have value and totally dependent upon other instruments or moveable or immoveable assets. Example: Futures, Option, swap and Forward etc.														
PURE INSTRUMENTS															
EQUITY SHARES	The equity shares represent the fractional ownership of a shareholder in the Company which has issued equity shares. The holder of equity shares is the member of the company and has the voting rights. Equity capital and further issues of equity capital by a company are generally based on the condition that they will rank pari – passu along with the earlier issued share capital in all respects. Section 43 of Companies Act, 2013 “equity share capital”, with reference to any company limited by shares, means all share capital which is not preference share capital.														

Equity share capital can be issued (i) with voting rights, or (ii) with differential rights as to dividend, voting or otherwise in accordance with such rules as may be prescribed.

Characteristics of Equity Shares

- (a) The Equity shareholders have voting rights at all the general meetings of the company.
- (b) The Equity shareholders have the right to share the profits of the company in the form of dividend and Bonus Shares.
- (c) In case of liquidation, the payment to the equity shareholders is made after satisfying all the claims of the other parties.

Note: The Equity shareholders cannot demand declaration of dividend by the company which is left to the discretion of the Board of Directors.

Rights of the Equity Shareholders (The Companies Act, 2013)

- (a) The right to vote on every resolution placed before the company.
- (b) The rights to subscribe to shares at the time of rights issue by the company (i. e. Pre-emptive Right).
- (c) Right to appoint proxy to attend and vote at the meeting on his behalf.
- (d) Right to receive copy of annual accounts of the Company.
- (e) Right to receive notice of the meeting of members.
- (f) Right of inspection of various statutory registers maintained by the company.
- (g) Right of requisition extraordinary general meeting of the company.

SHARES WITH DIFFERENTIAL VOTING RIGHTS (JUNE 2015)

No company (whether unlisted or listed public company) shall issue equity shares with differential rights as to dividend, voting or otherwise, unless it complies with the following conditions:-

- (a) **Authorization in AOA:** The articles of association (AOA) of the company authorize the issue of shares with DVR;
- (b) **Resolution:** The issue of equity shares with DVR is authorized by an Ordinary resolution.

Note: In case of a listed company, the issue of equity shares with DVR shall be approved by the shareholders via postal ballot (including e – voting) or a poll at a general meeting.

- (c) **Issue of Maximum Number of Equity shares with DVR:** A Company shall not issue more than 26% of the total post – issue paid – up equity share capital including equity shares with differential rights issued at any point of time.

- (d) **Distributable Profits:** The Company having consistent track record of distributable profit for the last 3 years.

- (e) **No default of Annual Compliances:** The Company has not defaulted in filing financial statements and annual returns for 3 financial years immediately preceding the financial year in which it has decided to issue such shares.

- (f) **No default in payment of dividend & deposits:** The Company has not defaulted in the payment of a declared dividend or repayment of its matured deposits or redemption of its preference shares or debentures.

- (g) **No default in transfer of unpaid fund** to IEPF or Statutory dues i. e. payment towards employee statutory dues in Provident Fund, Bonus, Gratuity & Employee State Insurance. The company has also not defaulted in transfer of unpaid dividends or Interest to crediting the amount in Investors Education and Protection Fund of CG.

	<u>However, a company may issue equity shares with differential rights upon expiry of five years from the end of the financial year in which such default was made good.</u> (h) No Offence: The Company has not been penalized by Court or Tribunal during the last 3 years of any offence under the RBI Act, 1934, SEBI Act, 1992, SCRA Act, 1956, the FEMA Act, 1999 or any other special Act.
ISSUE OF SWEAT EQUITY SHARES (DECEMBER 2017)	<u>SEBI (ISSUE OF SWEAT EQUITY) REGULATIONS, 2002</u> for all listed Companies: <u>Who shall be eligible for Sweat Equity Shares?</u> Employee means: (a) <u>Permanent Employees:</u> A permanent employee of the company who has been working for at least the last 1 year; or (b) <u>Directors:</u> A director of the company whether a whole time director or not; or (c) <u>Employees of Holding & Subsidiary Companies:</u> An employee or a director of a subsidiary or of a holding company of the company whether in India or outside India. <u>Validity:</u> The Special Resolution shall be valid for making the allotment for not more than 12 months from the date of its passing. <u>Limit for Issue Sweat Equity:</u> The Company shall not issue sweat equity shares more than 15% of paid – up equity share capital in a year or value of shares of Rs.5 crores, whichever is higher. <u>Lock – in period:</u> Sweat equity shares shall be non – transferable for three years from the date of allotment. <u>Valuation:</u> The sweat equity shares to be issued shall be valued at a price determined by a registered valuer as the fair price giving justification for such valuation. A copy of the valuation report obtained in both the above cases shall be sent to the shareholders with the notice of the general meeting. <u>Part of managerial remuneration:</u> The amount of sweat equity shares issued shall be treated as part of managerial remuneration subject to the fulfillment of the following conditions:- (a) The sweat equity shares are issued to the director or manager; and (b) They are issued for consideration other than cash. <u>Disclosure in Directors' Report:</u> The Board of Directors shall disclose the following details in Directors' Report with regard to issue of sweat equity shares:- (a) Class of director/employee to whom sweat equity shares were issued; (b) Class of shares issued as Sweat Equity Shares; (c) The number of sweat equity shares issued to the directors, key managerial personnel (KMP) or other employees showing separately the number of such shares issued to them, if any, for consideration other than cash and the individual names of allottees holding one percent or more of the issued share capital; (d) The reasons/justification for the issue; (e) Principal terms and conditions for issue, including pricing formula; (f) Total number of shares arising as a result of issue of sweat equity shares; (g) Percentage of the sweat equity shares of the total post issued & paid – up SC; (h) Consideration including consideration other than cash received; (i) Diluted Earnings per Share (EPS) pursuant to issuance of sweat equity shares.
PREFERENCE	Preference Share Capital means a share capital which has preferences over equity

SHARES (EXPLANATION TO SECTION 55 OF THE COMPANIES ACT, 2013)	shares in respect of dividend and capital. Preference shareholder has two types of preference over equity shares: (i) Payment of Dividend (ii) Payment OF Capital at the time of Liquidation <i>In other words, preference share means a part of issued share capital which has preferential rights in respect of dividends and capital in case of winding – up.</i> Note: No Company shall issue preference shares which are irredeemable.
DEBENTURES	Features: (a) It is a certificate of indebtedness. (b) It usually indicates the date of redemption. (c) It usually creates a charge on the undertaking or the assets of the company. (d) Debentures holder does not have any voting rights even in case of default in the payment of principal & interest amount by a company. (e) Compulsory payment of interest. (f) The interest on debenture is payable irrespective of whether there are profits made or not. Types of Debentures: (a) <u>Naked and Unsecured Debentures:</u> The debentures which do not carry any charge on the asset of the company are called naked or unsecured debentures. (b) <u>Secured Debentures:</u> The debentures which carry a charge on the asset of the company are called as secured debentures. (c) <u>Redeemable Debentures:</u> The debentures which are redeemable at the end of a fixed tenure are known as redeemable debentures. <i>Secured debentures can be issued subject to the maximum redemption period i. e. not exceeding 10 years from the date of issue. A company engaged in the setting up of infrastructure projects may issue secured debentures for a period exceeding 10 years but not exceeding 30 years.</i> (d) <u>Perpetual Debentures:</u> The debentures which are issued on the condition of redemption on the happening of certain even which is not going to happen in the near future, it is known as perpetual debentures. (e) <u>Bearer Debentures:</u> The debentures which are payable only to the bearer and are transferable by mere delivery is known as bearer debenture. (f) <u>Registered Debentures:</u> The debentures which are payable to the registered holders only whose name appears on the debenture certificate are known as registered debentures. Classification on the basis of Convertibility: <u>Fully Convertible Debentures:</u> The kinds of debentures which are fully convertible into equity shares on the expiry of specified period or periods are known as fully convertible debentures. <u>Non – Convertible Debentures:</u> The kinds of debentures which cannot be converted into the equity shares and are redeemed on the expiry of the specified period are known as non – convertible debentures.

	Partly Convertible Debentures: These types of debentures consist of two parts one of which can be converted into the equity shares while the other cannot. Features of Convertible Debentures: (i) They are issued for cash at par; (ii) They are of convertible nature. So, they can be converted into equity shares; (iii) They may be fully or partly convertible; (iv) The conversion may take place in one or more stages; (v) In case, a part of debenture is convertible after 18 months, the credit rating should be obtained by the company. (vi) The convertible debentures issued by a public company are listed on the stock exchange to assure liquidity. Advantages of Convertible Debentures: <u>Advantages to the Company:</u> (i) Capitalization of interest cost is possible; (ii) They carry lower rate of interest in comparison with Banks and Financial institutions; (iii) The convertible part of debentures is treated as equity by financial institutional; (iv) The equity capital gets increased after each conversion; (v) Tax benefits are higher; (vi) It is a popular form of financing as interest rates are lower; (vii) There is a greater degree of autonomy for the companies available with these kinds of debentures. <u>Advantages to the Investors:</u> (i) A fixed return by the way of interest is ensured; (ii) The investor tends to get value appreciation on his investment; (iii) Due to presence of charge on investors, there is prompt payment of principal & interest; (iv) It is highly liquid form of investment.
SECURED PREMIUM NOTES	Secured premium notes (SPN) is an instrument which has combined features of equity and debt instruments. SPN is nothing but a share warrant which is generally issued by the listed companies after getting the approval from the Central Government. The Companies issue SPN to meet their long – term and short – term funds requirements. Secured premium notes (SPN) are financial instruments which are issue with detachable warrants and are redeemable after certain period. In other words, SPN is a kind of non – convertible debenture (NCD) attached with share warrant. It can be redeemed after lock – in period and SPN holders will get principal amount with interest on instalment basis after lock – in period of total period for which SPN has been issued. However, during the lock – in – period no interest is paid. Lock – in period for SPN: SPN can be issued by the companies with the lock – in period for 4 to 7 years. This means an investor can redeem his SPN after lock – in period. SPN holders will get principal amount with interest on installment basis after lock – in period of said period. However, during the lock – in period no interest is paid.
EQUITY SHARES WITH DETACHABLE WARRANTS	An equity share with detachable warrant enables the holder to apply for the specified number of shares on the appointed date at the predetermined price. These types of instruments are listed in the Stock Market in two forms: (1) In the form of equity shares, and (2) Another in the form of warrant. Both instruments are separately tradable in the

	registered stock exchanges.
DEBT FOR EQUITY SWAP	It is a financial instrument which offers to the Debt holders to exchange the debt with the equity shares of the issuer Company. In other words, the debt holders will be given equity shares in place of their debt to the Company. What are the benefits available to the Company? This instrument reduces the financial burden of payment of fixed interest from the Company. This instrument also reduces the burden of payment of principal amount after certain period (at the time of maturity). However, the issuer faces the risk of dilution of earnings per share by a sharp rise in the equity. What are the benefits available to the Debt holders? These instruments give an offer to the debt holders to exchange the debt for equity shares of the company. From the investors' point of view, there is potential gain from rise in the value of the equity shares but these types of instruments are quite risky for the investor because the anticipated capital appreciation may or may not materialize. However, the dividends are not taxable in the hands of equity shareholders.
INDEXED RATE NOTES/BOND (DECEMBER 2017)	Introduction: Inflation risk has been a potential problem with fixed income securities (like fixed deposits, bonds). If the inflation rate is higher than the interest rate being received on the fixed income products, it diminishes the purchasing power of the consumer. Therefore Inflation indexed bonds are introduced to counter the inflation risk. The main difference between fixed deposits and inflation indexed bonds is the principal adjustment and interest payment. In case of a fixed deposit, a pre – defined static interest rate is mentioned and at the end of the tenure an investor can withdraw the invested amount along with the interest rate accumulated. In case of inflation indexed bonds, the principal is adjusted to wholesale price index (WPI) and a fixed coupon rate or interest rate is paid on the periodically adjusted principal amount. Beneficial to the Companies: These instruments are beneficial to a company in a high interest rate environment, if the interest rates are expected to decline between the date of commitment and the date of takedown. Beneficial to the Investor: These instruments are beneficial to the investors in a low interest rate environment, if the interest rates are expected to increase between the date of commitment and the date of takedown.
EXTENDABLE NOTES	❖ Extendable notes are issued for 10 years with flexibility to the issuer to review the interest rate every two years. ❖ The interest rate is adjusted every two years to reflect the then prevailing market conditions by tying the interest rate to a spread over a bond index such as two years treasury notes. ❖ However, investors have a put option at par value every two years i. e. they have the right to sell the bond to the issuer at a fixed rate on the expiry of every two years. ❖ This instrument encourages long – term investor participation in the scheme by favourable review of interest rates every two years.
DUAL OPTION WARRANTS	❖ Dual option warrants are designed to provide the buyer with good potential of capital appreciation & limited downside risk. ❖ It may be used to sell equity shares in different markets. ❖ Example: Equity shares or Debentures may be issued with two warrants – one warrant giving right to the purchaser to be allotted one equity share at the end

	of a certain period and another warrant with a debt or preference share option.
LEVEL PAY FLOATING NOTES	❖ Level pay floating rate notes are issued for a long period of time say 20 years, with adjustment in interest rate every five years. ❖ These notes provide for level payments for time intervals during the term of the note, with periodic interest adjustments tied to an index, and ❖ Adjustments to the principal balance to reflect the difference between the portion of the payment allocable to interest and the amount of floating rate interest actually incurred. ❖ Maximum limits on upward adjustments to principal are specified at the outset to protect the lender from runaway floating exposure. ❖ The level pay note has the advantage to the issuer of having a predictable level of debt service for a period of years, thereby avoiding the uncertainties of floating debt on cash flows during that time.
ZERO COUPON CONVERTIBLE NOTES (ZCCN)	❖ It is a debt instrument convertible into equity shares by issuer Company at after certain period. ❖ If investor chooses to convert its ZCCN into equity shares, he has to forego his entire accrued & unpaid interest. Since this instrument doesn't carry past obligations like accrued & unpaid interest at time of conversion into equity, therefore, it is known as Zero Coupon Convertible Notes. ❖ Generally issued with put option (right to sell) to the investors. Advantages to the issuer is the raising of convertible debt without heavy dilution of equity. ❖ Since the investors give up acquired interest by exercise of conversion option, the conversion option may not be exercised. <u>Benefits to the Issuer Company and investors:</u> This instrument reduces the financial burden (i. e. accrued and unpaid interest) of the Company. This instrument also reduces the burden of payment of principal amount after certain period (at the time of maturity). Investor gains in event of appreciation in value of the equity shares. Even if appreciation doesn't materialize, the investor has the benefit of steady stream of implied income. If the instrument is issued with put option, the investor can resell the securities to the investor.
DEEP DISCOUNT BOND (DDB)	❖ DDB means a financial instrument which is issued to the investors at significant discount. ❖ The DDB is considered as a safe, solid and long – term investment. Before issuing DDB, the issuer company must take credit rating for such instruments. ❖ Example: IDBI and SIDBI had issued Deep Discount Bonds. In year 1998, DDB was offered by the IDBI @ Rs.2700/- and investors would get Rs.1,00,000/- at the time of maturity. The maturity period was fixed for Rs.25 years from the date of issue of DDB. ❖ In this example, an investor can buy a deep discount bonds @ 2700/- which has the face value of such bond is Rs.1,00,000/-. Thus, if the face value of the bond is Rs.1,00,000/- and it is issued at Rs.2700, it is a deep discount. ❖ On maturity, when the bond is redeemed after 25 years, the bond issuer only pays the investors the face value of the bond. Therefore, no interest is payable to investors. ❖ The capital appreciation in case of deep discount bonds is chargeable to tax at capital gains rate.
DISASTER BONDS	❖ Disaster Bonds means a bond which is linked with natural calamities like earthquakes, tsunami Hurricane, Katrina and other natural disasters. ❖ It is being offered by the insurance company to the investors who would like to invest in a speculative fund. ❖ These are issued by companies and institutions to share the risk and expand

	the capital to link investors return with the size of insurer losses. ❖ The coupon (Interest) rate and the principal of the bonds are decided by the occurrence of disasters. ❖ However, these bonds haven't yet been issued by any insurance company in India. ❖ These instruments offer high returns if insurance claims are low, but when more claims filed due to disaster, the return of an investor will be low. In other words, the bigger the losses, the smaller the return and the smaller losses or no losses, the bigger the return.
OPTION BONDS	❖ Option bonds are like option contracts in which the underlying asset is a bond. ❖ A bond option allows investors the ability to hedge the risk of their bond portfolios or speculate on the direction of bond prices with limited risk. ❖ Those cumulative and non – cumulative bonds are covered by these instruments where the interest is payable on maturity or periodically and redemption premium is offered.
PAY IN KIND BONDS	The bond where the interest for the first three to five years is paid through the issue of additional bonds is known as pay in kind bonds. In other words, it is a bond in which interest payments come in form of more bonds, rather than cash and it resolves the liquidity issues of a company.
FLOATING RATE BONDS AND NOTES	❖ Floating rate Bonds are bonds that have variable interest rate and the rate of interest is subject to change as per the market conditions. ❖ The floating rate bonds take reference from money market like MIBOR & LIBOR. ❖ This kind of instrument does not give fixed rate of interest and is allowed to float the rate subject to the market conditions. ❖ This instrument is used by the issuers to hedge themselves against the volatility in interest rates.
CLIP AND STRIP BONDS	❖ It is a unique kind of bond in which the issuer company issues a bond in two parts. ❖ One part covers principal amount and another covers Interest (Coupon). In other words, it is an instrument which has two portions i. e. Principal Part or Interest Part and Interest part is attached as an additional instrument with principal amount. Therefore, it is clip (attached) and Strip (affixed) Bonds. ❖ These bonds are also referred to as coupon notes, split the principal and coupon portions of a bond issue. An investor can sell both instruments separately to anyone. Example: The Govt. of India issued bonds of Rs.10,000/- with a coupon of 10% and a maturity date of June 1, 2015. If all of the coupons are stripped off (Split), a buyer of the remaining bond portion will receive only one payment of Rs.10,000/- on June 1, 2015 if the bond is held to maturity. These will be no payments of interest on or before maturity, since the coupons have been sold to someone else. Accordingly, Clip and Strip bonds have unique features like two separate instruments one for principal amount and another for interest amount, both instruments are separately saleable in the market.
DUAL CONVERTIBLE BONDS	❖ Dual Convertible Bonds mean a bond which is convertible into either equity shares or fixed interest rate of debentures/preference shares at the option of investor. ❖ The investor may exercise this option based on the prospect of the project. ❖ In other words, the dual convertible bond gives an option to the investor for conversion of DCB into equity & fixed interest of debentures/preferences shares at the expiry of specified period.

CARROT AND STICK BOND	The “carrot and stick” approach refers to a policy of offering a combination of rewards and punishment to induce behavior. It is a traditional variant of convertible bond with a low conversion premium to encourage early conversion (the carrot), and a provision allowing the issuer to call the bond at a specified premium if the common stock is trading at a modest percentage above the conversion price (the stick). In carrot bonds, the premium over the present market price of the equity shares is fixed at a reasonable level so that the price of the equity shares is not increased. In stick bonds, the issuer has the right to call the issue at a specified premium if the price of the equity shares is traded over a specified percentage of conversion prices. In simple words, the carrot provision provides for a low conversion premium to attract holders to exercise the conversion earlier than time for conversion (i. e. the carrot). The stick provision allows the issuer to call the bond at a specified premium if the equity share of the issuer is trading at a certain percentage above the conversion price (i. e. the stick). This structure combines both rewards and punishments and it is up to the holder to go either course as its investment policy dictates. Features: (a) Carrot Provision gives an option to convert bonds into equity shares before the time of its conversion at low conversion premium. (b) Stick Provision makes compulsory conversion of Bonds into equity shares at a certain percentage above the conversion price.
COMMODITY BOND	❖ Commodity bonds are bonds issued to share the risk and profitability of future commodity prices with the investor. ❖ It is a bond which protects the capital of investors from the future inflation of any commodity. ❖ Example: Petro bonds, silver bonds, gold bonds & coal bonds. Petro bond may carry fixed rate of interest with part of face value of bonds denominated in barrels of oil. ❖ However, the commodity bond does carry more potential to generate a higher return than a fixed rate bond there is also more risk involved. ❖ While it is unusual, there is always the possibility that the underlying commodities will not perform as anticipated and the return will be less than originally projected. ❖ In general, a commodity – backed bond tends to carry less volatility than many stock issues.
TRACKING STOCKS (DEC 2016, JUNE 2018)	• It is a type of common stock which depends upon the financial performance of a specific business unit or an operating division. • If the unit or division or subsidiary company performs well, the value of the stock increases and vice – versa. • It is issued by a publicly held company to track the value of one segment of the company. • The tracking stock holders usually have no voting rights. • Tracking stock does not represent or require any change (de – merger or spin off) in business structure. • Holders of tracking stock are considered to hold equity in the parent company and not the specific entity represented by the tracking stock. • Tracking stock is often set up by companies that have several diverse divisions, both so that investors can take a share in a division of their interest, and so that the performance of these divisions can be tracked in terms of shareholder interest. • A company will sometimes issue a tracking stock when it has a very successful

	division that it feels is under – appreciated by the market and not fully reflected in the company's stock price.
MORTGAGE BACKED SECURITIES	Mortgage – backed securities (MBS) are bonds secured by home and other real estate loans. They are created when a number of these loans, usually with similar characteristics, are pooled together. These securities assure a fixed return which is derived from the performance of the specific assets. They are issued with a maturity period of 3 to 10 years and backed by pooled assets like mortgages, credit card receivables, etc. Features of assets to be securitized: The assets to be securitized shall have the following features:- (a) The cash flows generated from the assets should be received periodically in accordance with a Pre – determined schedule. (b) The actual cash flows generated from the assets should be predictable. (c) The assets should be large in number & total value to be issued in securitized form. (d) The assets should be sufficiently similar in nature to enable pooling of their cash flows. (e) The assets should be marketable. Advantages to Issuer: (a) The issuer can generate cash from the assets immediately enabling funds to be redeployed in other projects. (b) The issuer may be able to improve balance sheet ratios by excluding the original assets and the securities created by the assets from the balance sheet by suitable structuring of the transaction. Advantages to Investor: These instruments have a relatively low credit risk since the securities are backed by good quality collateral and offer a higher yield than Government securities.
INDUSTRIAL REVENUE BONDS	Industrial revenue bonds are issued by financial institutions in connection with the development or purchase of industrial facilities. These may become attractive if certain income-tax and wealth-tax concessions are offered. The bond proceeds could be used to purchase or construct facilities which are subsequently leased or sold to the company. The institution acts as a conduit of funds between the lenders and the company in order to take advantage of tax benefits enjoyed by the institutions.
CAPITAL INDEXED BONDS	• Capital indexed bonds are inflation-protection securities • Such bonds, therefore, provide good hedge against inflation risk. • Capital index bonds can be used as a market indicator for inflation expectation. • The benefits do extend beyond hedging. • This will help investors take a more intelligent decision on their current consumption.
Derivatives	
A derivative includes: (i) a security derived from a debt instrument, share, loan, whether secured or unsecured, risk instrument or contract for differences or any other form of securities. (ii) contract which derives its value from the prices, or index of prices, of underlying securities.	
FUTURE CONTRACT (JUNE 2018)	❖ Future contract means a legally binding agreement to buy or sell the underlying assets on a future date. ❖ Future contract are the organized/standardized contracts in terms of quantity, quality, delivery time and place for settlement on any date in future. ❖ The contract expires on a pre – specified date which is called as expiry date of

	contract. On expiry, futures can be settled by the delivery of underlying assets to one party or receipt of cash by another party. ❖ Cash settlement enables the settlement of obligations arising out of the future/option contract in cash.
OPTION CONTRACT (JUNE 2018)	❖ It is a contract which gives the buyer/holder of the contract the right to buy/sell the underlying asset at a pre – determined price within or at the end of the specified period. It is not an obligation on the option holder. ❖ The buyer/holder of the option purchases the right from the seller/writer for a consideration which is called as premium. The seller/writer of an option is obliged as per the terms of the contract when the buyer/holder exercises his rights. There are two types of Option Contracts: Call Option: A Call option is an option to buy an underlying asset at a specific price on or before expiry date of the contract. In this way, Call options are like advance money for purchase of any land and building. Example: If you want to sell your one flat which located in Dwarka, New Delhi to Mr. Raman. You have asked Mr. Raman to pay Rs.10 lacs as an advance for selling of your flat. As per the terms and conditions of an agreement to sale, Mr. Raman will pay Rs.10 lacs as advance and balance amount in one month. Mr. Raman has the right to buy within one month and no other liability. When you buy a Call option, the price you pay for it, called the option premium, secures your right to buy that certain stock at a specified price, called the strike price. If you decide not to use the option to buy the stock, and you are not obligated to, your only cost is the option premium. Put Option: Put options are options to sell a stock at a specific price on or before a certain date. In this way, Put options are like insurance policies. Example: If you buy a new car, and then buy auto insurance on the car, you pay a premium and are, hence, protected if the asset is damaged in an accident. If this happens, you can use your policy to regain the insured value of the car. In this way, the put option gains in value as the value of the underlying instrument decreases. If all goes well and the insurance is not needed, the insurance company keeps your premium in return for taking on the risk. With a Put option, you can “insure” a stock by fixing a selling price. If something happens which causes the stock price to fall, and thus, “damages” your asset, you can exercise your option and sell it at its “insured” price level. If the price of your stock goes up, and there is no “damage”, “then you do not need to use the insurance, and, once again, your only cost is the premium. This is the primary function of listed options, to allow investors ways to manage risk.
FORWARD CONTRACT	It is an agreement to buy or sell an asset(commodities/foreign exchange) at a certain future time for a certain price. It is different than a spot contract, which is an agreement to buy or sell an asset today. Example: Suppose on January 1, 2016, an Indian textile exporter receives an order to supply his product to a big retail chain in the US. Spot price of INR/US exchange rate is Rs.62/dollar. After six months, the exporter will receive \$1 million (Rs.6.5 crore) for his products. Since all his expenditure is in rupee term therefore he is exposed to currency risk.

	Let's assume that his cost of production is Rs.5 crore. To avoid uncertainty, the exporter enters into a six – month forward contract with a bank (with some fees) at Rs.65 to a dollar. So the exporter is hedged completely. If exchange rate appreciates to Rs.55 after six months, then the exporter will receive Rs.5.5 crore after converting his \$1 million and the rest Rs.1 crore will be provided by the bank. If exchange rate depreciates to Rs.70 per dollar then the exporter will receive Rs.7 crore after conversion, but has to pay Rs.0.50 crore to the bank. So no matter what the situation, the exporter will end up with Rs.6.5 crore. In other words, an agreement for the future delivery of the underlying commodity or security at a specified price at the end of a designated period of time is known as forward contract.
Hedge funds (June 2018) Hedge means fence, barrier & hurdle (other meaning – protection & security). In other words, it is a process of reducing and controlling future risk by taking some steps in advance. Hedge fund refers to an alternative investment vehicle that is designed to protect investment portfolios from market uncertainty, while generating positive returns in both up and down markets. Hedge funds are unregistered private investment partnerships, funds or pools that may invest and trade in many different markets, strategies and instruments (including securities, non – securities and derivatives) to provide certain periodic and standardized pricing and valuation information to investors. In short, it is an alternative investment that is designed to protect the capital (investment amount) of an investor from market uncertainty and generate positive returns from the market fluctuations. <u>What is hedging concept?</u> <u>Hedging</u>: it is a risk management strategy used in limiting the probable losses from market fluctuations in respect of the prices of commodities, currencies, or securities. In this case, automobile manufacturer protected his risk by buying future contracts in advance. It means automobile manufacturer hedged his position against the probable risk of price increase. Accordingly, a hedge fund's purpose is to maximize investor returns and eliminate risk. Hence, the word hedge or hedge fund came into being because the aim of these vehicles was to make money regardless of the market conditions “climbed higher or declined”. <u>Benefits (advantages) of hedge funds include: (June 2017)</u> (a) investment strategies that have the ability to generate positive returns in both rising and falling equity and bond markets. (b) hedge funds in a balanced portfolio can reduce overall portfolio risk and volatility and increase returns. (c) a huge variety of hedge fund investment styles – provide investors the ability to precisely customize investment strategy. <u>Risk factors (disadvantages) in hedge funds include:</u> (a) concentrated investment strategy exposes hedge funds to potentially huge losses. (b) hedge funds typically require investors to lock up money for a period of years. (c) use of leverage, or borrowed money, can turn what would have been a minor loss into a significant loss.	
DOMESTIC HEDGE FUNDS	❖ Hedge funds are organized as corporations in countries like USA as limited partnerships to accommodate investors that are subject to taxation policies of the United States. ❖ This type of hedge fund may use the business form of Limited Liability Companies (LLC), Limited Liability Partnership (LLP) or Business Trusts. ❖ In these types of business forms, LLC & LLP and business trusts are not liable to tax whereas the individual investors are liable to tax. This type of concept is very popular in USA.

OFFSHORE HEDGE FUNDS	❖ Offshore means a place situated at sea some distance from the shore or outside the jurisdiction of a Country. ❖ It means any investments through an organized corporation/company from foreign country. ❖ Generally, these funds are targeting those countries which have tax – free regime. These hedge funds are typically organized as corporations in certain countries like Cayman Islands, British Virgin Islands, the Bahamas or Bermuda. They attract investments of US tax – exempt entities.
EXCHANGE TRADED FUNDS (ETFs) (DECEMBER 2017)	ETFs are new varieties of mutual funds which were introduced in 1993. Exchange Traded Fund is a security that tracks an index, a commodity or a sector like an index fund or a sectoral fund but trades like a stock on an exchange. It is similar to close – ended mutual fund listed on stock exchanges. In other words, ETFs are baskets of securities that are traded, like individual stocks, on an exchange. In the simplest terms, Exchange Traded Funds (ETFs) are funds that track indices like the NIFTY Index, SENSEX etc. ETFs can be bought and sold exactly like a stock of an individual company during the entire trading day. Furthermore, they can be bought on margin, sold short or bought at limit prices. Exchange traded funds can help investors build a diversified portfolio that's easy to track. In short, they are similar to index mutual funds but are traded like securities. As their name implies, Exchange Traded Funds represent a basket of securities that are traded on an exchange. Advantages of ETFs (i) They can be bought and sold throughout the trading day. (ii) They have the ability to short or buy ETFs on margin. (iii) Low annual expenses are incurred. (iv) Tax efficiency is insured. Disadvantages of ETFs (i) An extra cost in the form of commissions is present. (ii) Only large institutions and wealthy persons can deal in ETFs. (iii) ETFs don't trade at the Net Asset Value.
GOLD EXCHANGE TRADED FUNDS (GOLD ETFs)	These schemes under Gold Exchange Traded Funds are allowed to invest primarily in Gold and Gold related instruments. Gold ETFs are subject to the following restrictions:- (i) The initial issue expenses should not exceed 6% of the funds raised. (ii) The funds should only be invested in the gold and gold related instruments. (iii) They may invest in the short term deposits of scheduled commercial banks.
FUND OF FUNDS (FOFs) (December 2018)	It is a mutual fund scheme which invests in the schemes of same or other mutual funds present in the market instead of investing in securities. These funds can be broadly classified into: ➤ <u>Sector Specific Funds</u>: These funds invest in the various sectors of the economy and protect themselves by not investing the whole amount in only one sector. ➤ <u>Asset Allocation Funds</u>: They diversify the investments by holding several different kinds of assets at the same time. They are also known as life cycle funds. Benefits of FOFs are: 1. Diversified investments: as a fund of funds invests in the schemes of other funds, it provides a greater degree of diversification.

	2. Uncomplicated scheme: instead of investing in different stocks and keeping track record of all of them, it will be much easier to invest in and track only one fund, which in turn invests in other mutual funds. 3. Cheap: while entering into the capital markets it is difficult to diversify because of limited funds. Fund of funds provide an opportunity to go for diversification with comparatively limited amounts. 4. Risk to the extent possible is eliminated. 5. Expertise of various managers proves to be beneficial. <u>The Disadvantages of FOFs are: (June 2017)</u> 1. Additional fees: the more amount of diversification increases the cost in terms of increase in fees. 2. Various management (every manager has a different style of working), operational (possibility of non-compliance and fraud) and Qualitative risks (Organisational structure, infrastructure, investment process, etc) are involved.
EXTERNAL COMMERCIAL BORROWINGS (ECB)	<u>MEANING:</u> ECBs are commercial loans raised by eligible resident entities from recognised non-resident entities and should conform to parameters such as minimum maturity, permitted and non-permitted end-uses, maximum all-in-cost ceiling, etc. The parameters apply in totality and not on a standalone basis. <u>TRACKS OF ECB:</u> The framework for raising loans through ECB comprises the following three tracks: Track I: Medium term foreign currency denominated ECB with minimum average maturity of 3/5 years. Track II: Long term foreign currency denominated ECB with minimum average maturity of 10 years. Track III: Indian Rupee (INR) denominated ECB with minimum average maturity of 3/5 years. <u>FORMS OF ECB (June 2019)</u> The ECB Framework enables permitted resident entities to borrow from recognized non-resident entities in the following forms: 1. Loans including bank loans; 2. Securitized instruments (e.g. floating rate notes and fixed rate bonds, non-convertible, optionally convertible or partially convertible preference shares / debentures); 3. Buyers' credit; 4. Suppliers' credit; 5. Foreign Currency Convertible Bonds (FCCBs); 6. Financial Lease; and 7. Foreign Currency Exchangeable Bonds (FCEBs) However, ECB framework is not applicable in respect of the investment in Non-convertible Debentures (NCDs) in India made by Registered Foreign Portfolio Investors (RFPIs) <u>CURRENCY OF BORROWING</u> • ECB can be raised in any freely convertible currency as well as in INR.

- For INR-denominated ECB, lenders (other than foreign equity holders) are required to mobilise INR through swaps/outright sale undertaken through an AD Category I bank in India.
- Change of currency from one convertible foreign currency to another convertible foreign currency/INR is freely permitted.
- Rate for conversion into INR: the rate prevailing on the date of agreement for such change or any exchange rate lower than the rate prevailing on the date of agreement.
- Change of currency from INR to foreign currency is not permitted.

DEBT EQUITY RATIO

The borrowing entities will be governed by the guidelines on debt equity ratio issued, if any, by the sectoral or prudential regulator concerned.

PARKING OF PROCEEDS (Utilization of Funds)

(i) Parking of ECB proceeds abroad: ECB proceeds meant only for foreign currency expenditure can be parked abroad pending utilization. Till utilisation, these funds can be invested in the following liquid assets:

(a) deposits or Certificate of Deposit or other products offered by banks rated not less than AA (-) by Standard and Poor/ Fitch IBCA or Aa3 by Moody's;

(b) Treasury bills and other monetary instruments of one year maturity having minimum rating as indicated above; and

(c) deposits with overseas branches/ subsidiaries of Indian banks abroad.

(ii) Parking of ECB proceeds domestically: ECB proceeds meant for Rupee expenditure should be repatriated immediately for credit to their Rupee accounts with AD Category I banks in India. ECB borrowers are also allowed to park ECB proceeds in term deposits with AD Category I banks in India for a maximum period of 12 months. These term deposits should be kept in unencumbered position.

UNIT 3: CREDIT RATING AND IPO GRADING

INTRODUCTION	Credit Rating is an indicator of risk involved in any financial products. Credit Rating symbolizes risk of any financial product based on the overall evolution of the issuer company. In other words, Credit rating establishes a link between risk and return. An investor can use credit rating to understand the level of risk and expected rate of return from such financial product. We can also say that Credit rating is the evaluation of the creditworthiness of a business organization based on various parameters like financial conditions, industry risk & management etc.
CREDIT RATING AGENCY	Credit Rating does not only cover rating of securities but also covers rating of fixed deposits, foreign exchange, country ratings and real estates. As per the SEBI (Credit Rating Agencies) Regulations, 1999, the definition of credit rating agencies and rating: • RATING Rating means an opinion regarding securities expressed in the form of standard symbols or in any other standardized manner, assigned by a CRA and used by the issuer of such securities to comply with a requirement specified by these Regulations. • CREDIT RATING AGENCIES: <i>"CRA means a body corporate engaged in or proposes to be engaged in the business of rating of securities offered by the way of public or right issue".</i> In simple term, CRA is a company that assigned credit ratings, which rate a debtor's ability to pay back debt by making timely interest payments and the likelihood of default. Further, it is an obligation on all the companies which are doing rating business, must register itself with SEBI before starting its business. In India, the following six credit rating agencies registered with SEBI which give credit ratings: (a) <u>CRISIL (Credit Rating and Information Services (India) Limited):</u> ❖ CRISIL Ltd. is India's first credit rating agency incorporated in 1987 which is providing ratings, research, and risk and policy advisory services. ❖ It is an India's leading ratings agency. (b) <u>ICRA Limited (Investment Information and Credit Rating Agency of India Limited):</u> ❖ ICRA Ltd. was set up in 1991 by leading financial/investment institutions, commercial banks and financial services companies as an independent and professional investment Information and Credit Rating Agency. ❖ It is a joint – venture between Moody's and various Indian commercial banks and financial services companies. (c) <u>CARE (Credit Analysis and Research Limited):</u> ❖ CARE Ltd. commenced its operations in April 1993. ❖ It was established itself as the second – largest credit rating agency in India. ❖ CARE Ratings has also emerged as the leading agency for covering many rating segments like that for banks, sub – sovereigns and IPO grading. (d) <u>India Ratings and Research Pvt. Ltd. (Formerly Fitch Rating India Pvt. Ltd.):</u> ❖ India Ratings and Research (Ind – Ra) is India's most respected credit rating agency which provides accurate & timely ratings. ❖ It changed its name in 2001 to India Ratings and Research Pvt. Ltd. (e) <u>Brickwork Rating Pvt. Ltd.:</u> ❖ Brickwork Ratings is a SEBI, RBI & NSIC registered credit rating agency offers Bank Loan, NCD, Commercial paper, MSME ratings and other grading services.

	❖ It is a Bangalore – based company and had started its operation in 2008 after its registration with SEBI. (f) SMERA (SME Rating Agency of India Limited): ❖ SMERA Ratings Ltd. is a joint initiative of Small Industries Development Bank of India (SIDBI), Dun & Bradstreet Information Services India Private Limited (D & B) and many leading public and private sector banks in India. ❖ SMERA started its operations in 2005 as a credit rating agency for Micro, Small and Medium Enterprises (MSME) sector in the country.
NEED/USES OF CREDIT RATING (Comment on the following)	Credit rating is extremely useful for understanding the risk and return relationship for an investor. Other than an investor, the Credit rating can also be used by the Issuer Company, the Intermediaries and the Regulators. ➤ For Investors: The main purpose of credit rating is to communicate to the investors the relative ranking of the default loss probability for a given fixed income investment, in comparison with other rated instruments. In a way it is essentially an information service. In the absence of professional credit rating, the investor has to largely depend on his familiarity with the names of promoters or collaborators of a company issuing debt instruments. This is not a reliable method of evaluation for investment. Credit rating by skilled, competent and credible professionals eliminates or at least minimizes the role of name recognition and replaces it with a well researched and properly analyzed opinion. This method provides a low cost supplement to investors. Large investors use information provided by rating agencies such as upgrades and downgrades and alter their portfolio mix by operating in the secondary market. Investors also use the industry reports, corporate reports, seminars and open access provided by the credit rating agencies. ➤ For Issuer Companies: The market places immense faith in opinion of credit rating agencies, hence the issuers also depend on their critical analysis. This enables the issuers of highly rated instruments to access the market even during adverse market conditions. Credit rating gives exact picture about the financial health of a company, in case the company wishes to improve its credit rating. It can take clue from such credit rating. Credit rating provides a basis for determining the additional return (over and above a risk free return) which investors must get in order to be compensated for the additional risk that they bear. The difference in price leads to significant cost savings in the case of highly rated instruments. A good credit rating improves the overall reputation of the company in the market and accordingly, investors shall invest their hard earned money with full confidence. ➤ For Intermediaries: Rating is useful to Intermediaries such as merchant bankers for planning, pricing, underwriting and placement of the issues. Intermediaries like brokers, bankers to the issue, registrar & transfer agent and dealers in securities use rating as an input for monitoring their risk exposures. Merchant bankers also use credit rating for pre – packaging issues by way of asset securitization/structured obligations. ➤ For Regulators: The Reserve Bank of India (RBI) prescribes a number of regulatory uses of

	ratings. The RBI requires that a NBFC must have minimum investment grade credit rating if it intends to accept public deposits. As per money market regulations of the RBI, a corporate must get an issue of CP rated and can issue such paper subject to a minimum rating. SEBI has also stipulated that ratings are compulsory for all public issue of debentures. SEBI has also made mandatory for acceptance of public deposit by Collective Investment Schemes. Accordingly, rating is required to comply with various regulatory requirements of Indian Laws.
FACTORS FOR SUCCESS OF A RATING SYSTEM	✓ Credible and independent structure and procedures; ✓ Professionalism and industry related expertise; ✓ Confidentiality ✓ Analytical research, integrity and consistency ✓ Objectivity and impartiality of opinions; ✓ Timeliness of rating review and announcement of changes;
RATING METHODOLOGIES	The rating of industry is based on the nature of the business. For rating purposes, we can divide the entire industry into two parts: (i) Manufacturing into two parts; (ii) Service Sector Factors to be considered before assigning any rating to the manufacturing companies: (JUNE 2013, JUNE 2010) ➤ Operating Efficiencies: Ability to control costs, productivity efficiencies relative to others, labour relationship, extent of forward and backward integration, access to raw materials/markets, and technology. ➤ Industry Risk: It is defined as the strength of the industry within the economy and relativity to the economic trends. It is evaluated on the basis of factors like business cyclicity, earnings volatility, growth prospects, demand supply Projections, entry barriers and extent of competition and nature and extent of regulation. ➤ Company's Industry and Market Position: The company's sales position in its major fields and its historical background of its market position is analyzed along with ability to sustain/increase market shares; brand strength and position; price leadership and distribution and marketing strengths/weaknesses. ➤ Accounting Quality: Financial statements are adjusted for non – standard accounting treatments. Overall evaluation of the accounting policies employed and the extent to which they understate or overstate financial performance and position. These include analysis of auditor's qualifications, revenue recognition, depreciation policy, inventory evaluation, funding for pension liabilities, undervalued assets etc. Financial flexibility Evaluation of the company's financing needs, plans and alternatives, its flexibility to accomplish its financing programmes under stress without damaging creditworthiness. ➤ Earnings Protection: The key measurements which indicate the basis long – term earnings power of the company including return on capital, profit margins, earnings from various business segments, sources of future earnings growth, coverage ratios etc. ➤ Financial Leverage: Relative usage of debt and levels of debt appropriate to different types of businesses, utilization of long and short – term sources of

	funds, management of working capital. ➤ Cash Flow Adequacy: It is the relationship of cash flows to leverage and the ability to internally meet all cash needs of the business. It measures the magnitude and variability of future cash flows relating to debt servicing obligations and other commitments such as group company funding, BIFR packages and contingent liabilities. This analysis goes into the inherent protective factors for expected cash flows of the company and the sensitivity of these cash flows to changes in variables like raw material costs and selling prices. ➤ Management Evaluation: The record of achievement in operations and financial results, strategic and financial planning, commitment, consistency and credibility, overall quality of management, line of succession, strength of middle management and organization structure and its linkage with the operating environment and management strategies.
RATINGS FOR FINANCIAL SERVICES COMPANIES	The rating for non – banking financial services companies is based on CAMEL Model: C stands for Capital Adequacy, A stands for Assets Quality, M stands for Management, E stands for Earnings, L stands for Liquidity
RATINGS PROCESS	• Step – 1: Initial Stage (i) Agreement between Credit Rating Agency and the Company (ii) Mandate to be given to the Credit Rating Agency by the Company (iii) Credit Rating Agency assigns a team for the said working of rating • Step – 2: Fact findings & analysis (i) The CRA team receives initial information from the company and conduct basic research (ii) The CRA team will have meetings with the representative of the Company and if required visit the company office (iii) The CRA team will analyze the collected information and prepare a report • Step – 3: Rating Finalization (i) Preview meeting (ii) Rating meeting • Step – 4: Assign Rating Based on the information, the CRA will assign a credit rating to the Company • Step – 5: Communication to Client Company The CRA will communicate the rating and rationale of rating. The client company is not under obligation to accept the rating provided by the Credit Rating Agencies. In case of non – acceptance by the client company, the client company may request for review of assigned rating and the company may provide fresh inputs/clarifications to the Credit Rating Agency. Based on fresh inputs/clarification, the Credit Rating Agency satisfies itself then it can assign a new rating. • Step – 6: Finalization of Credit Rating: • Step – 7: Surveillance and Monitoring: After assigning a rating, Credit Rating Agency monitors the overall performance of the issuer company and can also assign a

	new rating in case of any new development with regard to the financial health and other substantial matters.
REGULATORY FRAMEWORK FOR CREDIT RATING AGENCIES IN INDIA	All credit rating agencies are governed under the SEBI regulations. Credit Rating Agencies are generally promoted by the public financial institutions, scheduled commercial banks, and foreign banks operating in India. For doing any rating related assignment, the agency must be registered under the SEBI Regulations. Any Indian as well as foreign financial institution can get themselves registered under the SEBI Regulations for doing rating related assignments. <u>SEBI (CREDIT RATING AGENCIES) REGULATIONS, 1999:</u> <u>Registration of Credit Rating Agencies</u> (a) <u>Application:</u> Any person proposing to commence any activity as a credit rating agency should make an application to SEBI for the grant of a certificate of registration for the purpose accompanied by a non-refundable specified application fee. (b) <u>Grant of registration:</u> SEBI grants a certificate of registration after getting satisfied that the applicant is eligible for the grant of a certificate of registration. The certificate of registration granted under these regulation shall be valid unless it is suspended or cancelled by SEBI. The credit rating agency who has already been granted certificate of registration by SEBI, prior to the commencement of the SEBI (Change in Conditions of Registration of Certain Intermediaries) (Amendment) Regulations, 2016 shall be deemed to have been granted a certificate of registration, in terms of these regulations. The grant of certificate of registration should be subject to the payment of the specified registration fee in the manner prescribed; (c) <u>Conditions of Certificate:</u> • The certificate granted is subject to the condition that the credit rating agency should comply with the provisions of the Act, the regulations made thereunder and the guidelines, directives, circulars and instructions issued by SEBI from time to time on the subject of credit rating. • The credit rating agency should forthwith inform SEBI in writing where any information or particulars furnished to SEBI by a credit rating agency is found to be false or misleading in any material particular; or has undergone change subsequently to its furnishing at the time of the application for a certificate. • Where the credit rating agency proposes change in control, it shall obtain prior approval of SEBI for continuing to act as such after the change. • a credit rating agency shall not carry out any activity other than the rating of securities offered by way of public or rights issue. Nothing contained in these regulations shall preclude a credit rating agency from rating of financial instruments under the respective guidelines of a financial sector regulator or any authority as may be specified by the Board: Provided that all other activities shall be segregated to a separate entity within a period of two years from the date of notification of Securities and Exchange Board of India (Credit Rating Agencies)(Amendment) Regulations, 2018; (d) <u>Renewal of Registration:</u> Any person who fails to make an application for the grant of a certificate within the specified period ceases to carry on rating activity. <u>Agreement with the Client:</u> Every credit rating agency is required to enter into a written agreement with each client whose securities it proposes to rate, and every such agreement should include

the following provisions, namely:

(a) the **rights and liabilities** of each party in respect of the rating of securities shall be defined;

(b) the **fee** to be charged by the credit rating agency shall be specified;

(c) the client shall agree to a **periodic review** of the rating by the credit rating agency during the tenure of the rated instrument and to co-operate with the credit rating agency in order to enable the latter to arrive at, and maintain, a true and accurate rating of the clients' securities and shall in particular provide to the latter, true, adequate and timely information for the purpose;

(d) the credit rating agency shall disclose to the client the rating assigned to the securities of the latter through regular methods of dissemination, irrespective of whether the rating is or is not accepted by the client;

(e) the client shall agree to disclose the rating assigned to the client's listed securities by any credit rating agency during the last three years and any rating given in respect of the client's securities by any other credit rating agency, which has not been accepted by the client in the offer document;

(f) the client shall agree to obtain a rating for any issue of debt securities in accordance with the relevant regulations;

Promoter of Credit Rating Agency

The following institutions can act as the promoter of the Credit Rating Agencies:-

- (i) A public financial institution;
- (ii) A scheduled commercial bank;
- (iii) A foreign bank operating in India with the approval of the Reserve Bank of India;
- (iv) a foreign credit rating agency incorporated in a Financial Action Task Force (FATF) member jurisdiction and recognised under their law, having a minimum of five years' experience in rating securities;
- (v) Any company or a body corporate, having continuous net worth of minimum Rs.100 crores as per its audited annual accounts for the previous 5 years in relation to the date on which application to SEBI is made seeking registration.

Eligibility Criteria:

- (a) The applicant is set up and registered as a company under companies act, 2013;
- (b) The applicant has, in its MOA, specified rating activity as one of its main objects;
- (c) The applicant has a minimum net worth of Rs. 25 Crores;
- (d) the promoter of the credit rating agency, in terms of regulation 4, has a minimum shareholding of 26% in the credit rating agency.

Other Points are same as given in Standard Eligibility Criteria Format.

Monitoring of Ratings

- (i) Credit rating agency should continuously monitor the rating of the securities rated by it.
- (ii) It should also disseminate information regarding newly assigned ratings and changes in earlier rating promptly through press releases and websites.

Code of Conduct: (Dec 2007)

Refer Standard Code of Conduct Format Given at the end of these notes.

Compliances for Credit Rating Agencies & Rating process

- (i) Credit rating agency should file a copy of the process with SEBI for record and also file with SEBI any modifications or additions from time to time.
- (ii) It should in all cases follow a proper rating process.
- (iii) Credit rating agency is required to have professional rating committees,

	comprising members who are adequately qualified and knowledgeable to assign a rating. (iv) All rating decisions, including the decisions regarding changes in rating, should be taken by the rating committee. (v) Credit rating agency should be staffed by analysis qualified to carry out a rating assignment. (vi) Credit rating agency should inform SEBI about new rating instruments or symbols introduced by it. (vii) Credit rating agency should exercise due diligence in order to ensure that the rating given by the credit rating agency is fair and appropriate. (viii) A credit rating agency should not rate securities issued by it. (ix) Rating definition as well as the structure for a particular rating product should not be changed by a credit rating agency, without prior information to SEBI. <u>Securities Issued by Promoter</u> (i) Credit rating agency shall not rate a security issued by its promoter. (ii) No credit rating agency should rate a security issued by an entity, which is a borrower of its promoter or a subsidiary of its promoter or an associate of its promoter. (iii) No credit rating agency should rate a security issued by its associate or subsidiary. <u>Procedure for Inspection and Investigation</u> SEBI has the power to appoint one or more persons as inspecting officers: (i) To undertake inspection or investigation of the books of account, records and documents of the credit rating agencies; (ii) To investigate into complaints received from investors, clients or any other person on any matter having a bearing on activities of the credit rating agency; (iii) To judge the appropriateness of the ratings may be ordered by SEBI.
OBLIGATIONS OF CREDIT RATING AGENCY	(i) It is the duty of credit rating agency whose affairs are being inspected, to produce to the inspecting officer such books, accounts and other documents as the inspecting officer may require within a reasonable period. (ii) The credit rating agency should allow the inspecting officer to have reasonable access to the premises occupied by such credit rating agency. (iii) The inspecting officer should be entitled to examine, or record the statements, of any officer, director or employee of the credit rating agency for the purposes connected with the inspection or investigation. (iv) Every director, officer or employee of the credit rating agency is bound to render to the inspecting officer all assistance in connection with the inspection or investigation.
INTERNAL AUDIT OF CREDIT RATING AGENCY	An internal audit should be undertaken on a half – yearly basis which is envisaged under Regulation 22 of the SEBI (Credit Rating) Regulations, 1999, by: (a) Company Secretaries; (b) Chartered Accountants; (c) Cost and Management Accountants. The time schedule for the internal audit shall be as under: (a) The CRA shall receive the report of the internal audit within 2 months from the end of the half – year. (b) Board of Directors of the CRA shall consider the report and take steps to rectify the deficiencies, if any and an Action Taken Report should be sent to SEBI within next 2 months.

	The internal audit covers all aspects of Credit Rating Agencies relating to operations and procedures, including investor grievance Redressal mechanism etc. The report will have to state the methodology adopted, deficiencies observed and consideration of response of the management on the deficiencies. Apart from the summary of operations and this audit also covers the size of operations, number of transactions audited and the number of instances where deviations/violations were observed during audit period, will also have to be stated.																
DISCLOSURES OF RATING DEFINITIONS	Credit rating agency should make public the definitions of the concerned rating, along with the symbol and state that the ratings do not constitute recommendations to buy, hold or sell any securities. It should also make available to the general public information relating to the rationale of the ratings, which shall cover an analysis of the various factors justifying a favorable assessment, as well as factors constituting a risk. It is further clarified by SEBI that if the issuer does not share information sought by the CRA within 7 days of seeking such information from the Issuer, even after repeated reminders (within these 7 days) from the CRA, the CRA shall take appropriate rating action depending upon the severity of information risk of the issuer.																
RATING AND SYMBOLS	It has been observed by the SEBI that the Credit Rating Agencies are using different rating symbols. Such different types of Credit Rating create confusion in the minds of investors. Therefore, SEBI introduced the common rating symbols: (a) For easy understanding of the rating symbols; and (b) To achieve high standards of integrity and fairness in ratings. Rating symbols should have CRA's first name as prefix. For Example: CARE AAA, CARE AA etc. Long Term Debt Instruments These instruments are with original maturity exceeding one year. <table border="1"> <tr> <td>AAA</td><td>Instruments with this rating are considered to have the <u>highest degree of safety</u> regarding timely servicing of financial obligation. Such instruments are <u>lowest credit risk</u>.</td></tr> <tr> <td>AA</td><td>Instruments with this rating are considered to have <u>high degree of safety</u> regarding timely servicing of financial obligations. Such instruments carry <u>very low credit risk</u>.</td></tr> <tr> <td>A</td><td>Instruments with this rating are considered to have <u>adequate degree of safety</u> regarding timely servicing of financial obligations. Such instruments carry <u>low credit risk</u>.</td></tr> <tr> <td>BBB</td><td>Instruments with this rating are considered to have <u>moderate degree of safety</u> regarding timely servicing of financial obligations. Such instruments carry <u>moderate credit risk</u>.</td></tr> <tr> <td>BB</td><td>Instruments with this rating are considered to have <u>moderate risk of default</u> regarding timely servicing of financial obligations.</td></tr> <tr> <td>B</td><td>Instruments with this rating are considered to have <u>high risk of default</u> regarding timely servicing of financial obligations.</td></tr> <tr> <td>C</td><td>Instruments with this rating are considered to have <u>very high risk of default</u> regarding timely servicing of financial obligations.</td></tr> <tr> <td>D</td><td>Instruments with this rating <u>are in default or are expected to be in default soon</u>.</td></tr> </table> Modifiers {"+" (plus)/ "-" (minus)} can be used with the rating symbols for the categories AA to C. The modifiers reflect the comparative standing within the category.	AAA	Instruments with this rating are considered to have the <u>highest degree of safety</u> regarding timely servicing of financial obligation. Such instruments are <u>lowest credit risk</u> .	AA	Instruments with this rating are considered to have <u>high degree of safety</u> regarding timely servicing of financial obligations. Such instruments carry <u>very low credit risk</u> .	A	Instruments with this rating are considered to have <u>adequate degree of safety</u> regarding timely servicing of financial obligations. Such instruments carry <u>low credit risk</u> .	BBB	Instruments with this rating are considered to have <u>moderate degree of safety</u> regarding timely servicing of financial obligations. Such instruments carry <u>moderate credit risk</u> .	BB	Instruments with this rating are considered to have <u>moderate risk of default</u> regarding timely servicing of financial obligations.	B	Instruments with this rating are considered to have <u>high risk of default</u> regarding timely servicing of financial obligations.	C	Instruments with this rating are considered to have <u>very high risk of default</u> regarding timely servicing of financial obligations.	D	Instruments with this rating <u>are in default or are expected to be in default soon</u> .
AAA	Instruments with this rating are considered to have the <u>highest degree of safety</u> regarding timely servicing of financial obligation. Such instruments are <u>lowest credit risk</u> .																
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C	Instruments with this rating are considered to have <u>very high risk of default</u> regarding timely servicing of financial obligations.																
D	Instruments with this rating <u>are in default or are expected to be in default soon</u> .																

Short Term Debt Instruments

These instruments are with original maturity of upto one year.

A1	Instruments with this rating are considered to have <u>very strong degree of safety</u> regarding timely payment of financial obligations and carry <u>lowest credit risk</u> .
A2	Instruments with this rating are considered to have <u>strong degree of safety</u> regarding timely payment of financial obligations. Such instruments carry <u>low credit risk</u> .
A3	Instruments with this rating are considered to have <u>moderate degree of safety</u> regarding timely payment of financial obligations. Such instruments carry <u>higher credit risk</u> as compared to instruments rated in the two higher categories.
A4	Instruments with this rating are considered to have <u>minimal degree of safety</u> regarding timely payment of financial obligations. Such instruments carry <u>very high credit risk</u> and are susceptible to default.
D	Instruments with this rating <u>are in default or expected to be in default</u> on maturity.

Modifiers {"+" (plus)} can be used with the rating symbols for the categories A1 to A4. The modifier reflects the comparative standing within the category.

Long Term Structured Finance Instruments

These instruments are with original maturity exceeding one year. Rating symbols should have CRA's first name as prefix.

AAA(SO)	Instruments with this rating are considered to have the <u>highest degree of safety</u> regarding timely servicing of financial obligations and carry <u>lowest credit risk</u> .
AA(SO)	Instruments with this rating are considered to have <u>high degree of safety</u> regarding timely servicing of financial obligations. Such instruments carry <u>very low credit risk</u> .
A(SO)	Instruments with this rating are considered to have <u>adequate degree of safety</u> regarding timely servicing of financial obligations. Such instruments carry <u>low credit risk</u> .
BBB(SO)	Instruments with this rating are considered to have <u>moderate degree of safety</u> regarding timely servicing of financial obligations. Such instruments carry <u>moderate credit risk</u> .
BB(SO)	Instrument with this rating are considered to have <u>moderate risk of default</u> regarding timely servicing of financial obligations.
B(SO)	Instruments with this rating are considered to have <u>high risk of default</u> regarding timely servicing of financial obligations.
C(SO)	Instruments with this rating are considered to have <u>very high likelihood</u> of default regarding timely payment of financial obligations.
D(SO)	Instruments with this rating are <u>in default or are expected to be in default soon</u> .

Note: SO stands for Structured Obligation.

Short Term Structured Finance Instruments

The instruments with original maturity of upto one year.

A1(SO)	Instruments with this rating are considered to have very <u>strong degree of safety</u> regarding timely payment of financial obligation. Such instruments carry <u>lowest credit risk</u> .
A2(SO)	Instruments with this rating are considered to have <u>strong degree of safety</u> regarding timely payment of financial obligation. Such instruments carry <u>low credit risk</u> .
A3(SO)	Instruments with this rating are considered to have <u>moderate degree of safety</u> regarding timely payment of financial obligation. Such

		instruments carry <u>higher credit risk</u> as compared to instruments rated in the two higher categories.
	A4(SO)	Instruments with this rating are considered to have <u>minimal degree of safety</u> regarding timely payment of financial obligation. Such instruments carry <u>very high credit risk</u> and are susceptible to default.
	D(SO)	Instruments with this rating <u>are in default or expected to be in default</u> on maturity.
	Long Term Debt Mutual Fund Schemes	
	These debt mutual fund schemes have an original maturity exceeding one year. Rating symbols should have CRA's first name as prefix.	
	AAAmfs	Schemes with this rating are considered to have the <u>highest degree of safety</u> regarding timely receipt of payments from the investments that they have made.
	AAmfs	Schemes with this rating are considered to have the <u>high degree of safety</u> regarding timely receipt of payments from the investments that they have made.
	Amfs	Schemes with this rating are considered to have the <u>adequate degree of safety</u> regarding timely receipt of payments from the investments that they have made.
	BBBmfs	Schemes with this rating are considered to have the <u>moderate degree of safety</u> regarding timely receipt of payments from the investments that they have made.
	BBmfs	Schemes with this rating are considered to have <u>moderate risk of default</u> regarding timely receipt of payments from the investments that they have made.
	Bmfs	Schemes with this rating are considered to have <u>high risk of default</u> regarding timely receipt of payments from the investments that they have made.
	Cmfs	Schemes with this rating are considered to have <u>very high risk of default</u> regarding timely receipt of payments from the investments that they have made.
	Short Term Debt Mutual Fund Schemes	
	These debt mutual fund schemes have an original maturity of up to one year. Rating symbols should have CRA's first name as prefix.	
	A1mfs	Schemes with this rating are considered to have <u>very strong degree of safety</u> regarding timely receipt of payments from the investments that they have made.
	A2mfs	Schemes with this rating are considered to have <u>strong degree of safety</u> regarding timely receipt of payments from the investments that they have made.
	A3mfs	Schemes with this rating are considered to have <u>moderate degree of safety</u> regarding timely receipt of payments from the investments that they have made.
	A4mfs	Schemes with this rating are considered to have <u>minimal degree of safety</u> regarding timely receipt of payments from the investments that they have made.
	INITIAL OFFER GRADING (JUNE 2013, JUNE 2010, JUNE 2011, JUNE 2014, DEC 2013, DEC 2008)	PUBLIC (IPO)
	IPO Grading is Optional and in case any issuer who decides to offer shares through an IPO, is required to obtain a grade for the IPO from at least one Credit Rating Agency. IPO grading is an assessment of risk based on various factors like business prospects, financial position, management quality, corporate governance, compliance & litigation history and New Projects – Risks & Prospects. (IPO Grading has become optional from 2014)	

(IMPORTANT)

The grade assigned to any individual issue represents a relative assessment of the fundamentals of that issue in relation to the universe of other listed equity securities in India. Such grading is assigned on a five – point scale with a higher score indicating stronger fundamentals. IPO grading is not an investment recommendation. IPO grading provides an independent assessment of fundamentals to aid comparative that would prove useful as an information and investment tool for investors.

Moreover, such a service would be particularly useful for assessing the offerings of companies accessing the equity markets for the first time where there is no track record of their market performance. Thus, IPO grading is an additional investor information and investment guidance tool.

➤ **Procedure for IPO grading**

IPO grading is the grade assigned by a Credit Rating Agency (CRAs) registered with SEBI, to the initial public offering (IPO) of equity shares. The grade represents a relative assessment of the fundamentals of that issue in relation to the other listed equity securities in India.

Such grading is generally assigned on a five – point scale with a higher score indicating stronger fundamentals and vice versa as below:

IPO grade 1 – Poor fundamentals

IPO grade 2 – Below Average fundamentals

IPO grade 3 – Average fundamentals

IPO grade 4 – Above average fundamentals

IPO grade 5 – Strong fundamentals

IPO grading has been introduced as an endeavor to make additional information available for the investors in order to facilitate their assessment of equity issues offered through an IPO. The company shall enter into an agreement with anyone credit rating agency registered with SEBI. The CRA would follow the below mentioned process:-

- (i) Seek information required for the grading from the company.
- (ii) On receipt of required information, have discussions with the company's management and visit the company's operating locations, if required.
- (iii) Prepare an analytical assessment report.
- (iv) Present the analysis to a committee comprising senior executives of the concerned grading agency. This committee would discuss all relevant issues and assign a grade.

UNIT 4: MARKET INFRASTRUCTURE INSTITUTIONS: STOCK EXCHANGE TRADING MECHANISM

INTRODUCTION	Before understanding the entire concept of Stock Market, we have to understand the meaning of the following terms: (a) <u>Stock Exchanges</u>: A Market (a place of buying/selling) where any person can buy or sale any securities of a listed company. (b) <u>Listed Company</u>: A company whose securities (i. e. shares, debentures & bonds etc.) are registered (listed) for purpose of trading with any recognized stock exchange. (c) <u>Listing Agreement</u>: It is an agreement between a proposed listed company and the stock exchange before giving permission to company with regard to trading of securities. After execution of this agreement, the company shall be treated as listed company and under obligation to comply with requirement of the listing agreement.
STOCK EXCHANGE TRADING MECHANISM	Stock Exchange is a market place for buying and selling of listed securities. Securities are traded in three different ways in stock exchanges, namely (a) Settlement Basis, (b) Spot Basis, and (c) Cash Basis etc. <u>TYPES OF SECURITIES</u>: Securities traded in the stock exchanges can be classified as under:- (June 2015) (i) <u>Listed cleared Securities</u>: These securities are admitted for trading on a stock exchange after fulfillment of all listing requirements and almost all types of listed securities are under this. (ii) <u>Permitted Securities</u>: These securities are listed on some of the recognized stock exchanges and when permitted to be traded by those stock exchanges where they are not listed is called permitted securities. In other words, to facilitate the market participants to trade in securities of such companies, which are actively traded at other stock exchanges but are not listed on another stock exchange, trading in such securities is facilitated as “Permitted Securities”. <u>TYPES OF DELIVERY</u>: Types of delivery in the stock exchanges are: (i) <u>Spot Delivery</u>: The delivery is said to be spot delivery, if the delivery and payment are to be made on the same day or next day. (ii) <u>Hand Delivery</u>: The delivery is said to be hand delivery, if the delivery and payment are to be made on the delivery date fixed by the stock exchange authorities. (iii) <u>Special Delivery</u>: A special delivery is one where the delivery is to be made after the delivery period fixed by the stock exchange authorities. <u>BASIC TERMINOLOGIES USED IN STOCK MARKETS</u> (a) <u>SENSEX</u>: • SENSEX refers to “Sensitivity Index” which is associated with the stock market indices. • An index is basically an indicator. It gives an idea about movement of stock market whether most of the securities have gone up or most of the securities have gone down listed in BSE. • In India, SENSEX is popularly known as Index of Bombay Stock Exchange –the barometer of Indian Capital Market. • Now, BSE SENSEX is also known as S & P BSE SENSEX. This S & P BSE SENSEX comprises of 30 companies. • The SENSEX was 1st compiled in 1986, was calculated on a “Market Capitalization – Weighted” methodology of 30 component stocks representing large, well – established and financially sound companies across key sectors.

	• Since September 1, 2003, S & P BSE SENSEX is being calculated on a free – float market capitalization methodology. <u>BSE On-Line Trading: (Dec 2009)</u> ⇒ BOLT is the modern trading practice introduced by BSE. ⇒ Under this arrangement, trading can be carried out by member brokers and their authorized assistants from their workstations. ⇒ It provides for a search based trading mechanism whereby two way quotes are accepted from Jobbers and Market Makers and from brokers on the basis of orders received from investors. ⇒ The System matches them according to logic specified in BOLT. (b) <u>NIFTY:</u> • The NIFTY 50 is an index of National Stock Exchange of India. It gives an idea about movement of stock market whether most of the securities have gone up or most of the securities have gone down listed in NSE. • The NIFTY 50 covers 22 sections of the Indian economy and offers investment managers exposure to the Indian market in one portfolio. • The NIFTY 50 index is a free float market capitalization weighted index. • The index was initially calculated on full market capitalization methodology. From June 26, 2009, the computation was changed to free float methodology. • The base period for the CNX Nifty index is November 3, 1995, which marked the completion of one year of operations of National Stock Exchange Equity Market Segment. • The base value of the index has been set at 1000. (c) <u>SETTLEMENT:</u> After you have bought or sold securities through your broker, the trade has to be settled. It means the buyer has to receive his shares and the seller has to receive his money. This process settles the claims of both parties, is known as settlement in connection with stock market. In other words, settlement is just the process whereby payment is made by all those who have made purchases and shares are delivered by all those who have made sales. Presently, settlement period is T + 2 (previous it was T + 3) and T stands for Trading Day and 2 more trading days. (d) <u>TREND LINE:</u> • In case, the price of shares moves in a particular direction which persists for a longer period i. e. is known as <u>Trend</u>. • When the movement is upward, the trend is called <u>BULLISH</u>. Bull market is a rising market with abundance of buyers and relatively few sellers. • When the movement is downward it is called <u>BEARISH</u>. Bear market is a weak or falling market characterized by the dominance of sellers. • Secondary movements that reverse the uptrend temporarily are known as Reactions. • The movements that reverse the down trend temporarily are known as Rallies. • When an uptrend breaks in the downward direction, it is called <u>Trend Reversal</u>.
MARGINS	<i>“The amount of credit a broker or lender extends to a customer for purchase of securities is known as margin.”</i> It was introduced by SEBI to restrain speculative dealings in shares leading to volatility in the prices of securities. <u>INITIAL MARGIN:</u> The minimum amount, calculated as a percentage of the transaction value, to be placed by the client, with the broker, before the actual purchase. The broker may take advance the balance amount to meet full settlement obligations. This amount is to be kept in the client accounts at the time of actual purchase.

	An Initial Margin Requirement refers to the percentage of equity required when an investor opens a position. <u>MAINTENANCE MARGIN:</u> Minimum amount, calculated as a percentage of market value of the securities calculated with respect to last trading day's closing price, to be maintained by client with the broker. If the balance deposit in the client's margin account falls below the required maintenance margin, the broker shall promptly make margin calls. The broker may liquidate the securities if the client fails to meet the margin calls made by the broker. Margin trading acts as a check on the tendency of clients to manipulate markets by placing orders on brokers without having adequate money or securities to backup the transaction. Margin trading also acts as a curb on short selling and short buying. <u>NO DELIVERY PERIOD</u> <u>Book Closure (Section 91 of the Companies Act, 2013)</u> is the periodic closure of the Registrar of Members and Transfer Books of the company to take a record of the shareholders to determine their entitlement to dividends or to bonus or right shares or any other rights pertaining to shares. A company may close the register of members for a maximum of 45 days in a year and for not more than 30 days at any one time. The listed company should close their book at least once in a year. The listed company should give notice of book closure in a newspaper at least 7 days before the commencement of the book closure. The members whose names appear in the register of members on the last date of book closure are entitled to receive the benefits of dividend, right shares or bonus shares, as the case may be. <u>Record date (Clause 16 of the listing agreement)</u> is the date on which the records of a company are closed for the purpose of determining the stock holders to whom dividends, proxy's rights etc. are to be sent. In case of fixation of record date, a company fixes a date for determining the corporate benefits like dividends rights, bonus shares rights and rights issue. The listed company should give notice or record date in a newspaper at least 7 days before the fixation of the record date.
MARKET MAKING (June 2015, June 2016, Dec 2010, June 2010)	✓ Market Making is a process of infusing liquidity in securities that are not actively traded. ✓ There are thousands of companies listed on the Indian Stock Exchanges only few of them are actively traded. For providing liquidity to the illiquid scrips, Market Makers are required to provide two way quotes. ✓ A market maker puts up a buy quote and sells quote simultaneously. ✓ Market Makers are responsible for creating and enhancing the demand and supply situation in the particular securities. Market makers are Merchant Bankers willing to make a secondary market in securities through selection and specialization. ✓ They act as dealer – cum – stockists and display bid and offer price without charging any commission or brokerage. ✓ Example: If a market maker gives a bid ask quote of Rs.1100 – Rs.1000 (which means the maker will buy from the market at 1000 & sell at 1100), the profit of market maker is Rs.100/- per share. ✓ In short, a market maker is responsible for enhancing activities in a few chosen securities. The market maker provides buy and sell quotes for keeping activities in the particular securities. ✓ The Market makers are allowed to buy and sell at a differential rate ranging from 3% to 10%. In US stock market like NASDAQ & NYSE, the market makers are very active even for good companies like Oracle, Cisco Systems and Dell Computers etc.
SECURITIES	• SEBI permitted short selling in Indian Stock Exchange in year 2007 and issued

LENDING AND BORROWING (i.e SHORT SELLING) (JUNE 2018, DEC 2017, Dec 2015, June 2015, June 2014, June 2011, June 2010, Dec 2008)	guidelines for short selling in securities. • Short Selling means sell of securities that the seller does not own at the time of selling. It is temporary transfer of securities from one person (lender) to another (borrower) via an approved intermediary. In short, the borrower is obliged to return them either on demand or at the end of agreed term. • Short selling can be done by borrowing the stock through Clearing Corporation/Clearing House of a stock exchange which is registered as Approved Intermediaries (AIs). Short selling can be done by retail as well as institutional investors. The Securities Lending and Borrowing mechanism allows short sellers to borrow securities for making delivery. • When shorting, you sell equity share when you believe the price of equity share is too high. Believing the equity share price is too high, you want to take the advantage of this situation and earn money while that market push the stock down to its fair value. <u>BROAD FRAMEWORK FOR SHORT SELLING</u> • All classes of investors are permitted to short sell viz. retail and institutional investors. • Naked short selling is not permitted in the Indian securities market. • No institutional investors are allowed to do day trading. • The stock exchanges can frame necessary uniform deterrent provisions regarding this. • The securities traded in F & O segment shall be eligible for short selling. • The settlement cycle for SLB transactions shall be on T + 1 basis. • Any lender or borrower who wishes to extend an existing lent or borrow position shall be permitted to roll-over such positions i.e. a lender who is due to receive securities in the pay out of an SLB session, may extend the period of lending. Similarly, a borrower who has to return borrowed securities in the pay-in of an SLB session, may, through the same SLB session, extend the period of borrowing. The roll-over shall be conducted as part of the SLB session. • The total duration of the contract after taking into account rollovers shall not exceed 12 months from the date of the original contract. It is clarified that multiple rollovers of a contract by the lender or borrower is permitted. • Rollover shall not permit netting of counter positions, i.e. netting between the 'borrowed' and 'lent' positions of a client. • Adequate systems shall be put in place by the stock exchanges/Depositories to distinguish the SLB transactions from the normal market transactions in the demat system.
SETTLEMENT SYSTEM	• Settlement means actual delivery/receipts of securities and payment of agreed amount. • Settlement date is the date specified for delivery of securities between securities firms. It is necessary to make settlement to know net effect of series of transactions during given period. • All transactions executed during settlement period are settled at the end of the settlement period. • It is necessary to settle all transactions of stock exchange because of risk of payment default and transfer of securities. • Settlement risk or principal risk is the risk that the seller of a security or funds delivers its obligation but does not receive payment or that the buyer of a security of funds makes payment but does not receive delivery. • In Indian Stock Market, T + 2 settlements are prevailing. <u>WHAT IS ROLLING SETTLEMENT? (Dec 2016, Dec 2009, Dec 2007)</u>

Rolling settlement is a system of settlement transaction in a fixed number of days after the date of Trade. Earlier rolling settlement was based on T + 3 and now it is T + 2 settlement system. T stands for trading day.

Note: For calculating settlement date, all intervening holidays shall be excluded like Sundays, Saturdays and stock exchange holidays.

Example: If trade of securities happened on Wednesday, then such transaction must be settled by Friday i. e. Wednesday and 2 more working days.

SETTLEMENT CYCLE FOR ROLLING SETTLEMENT

	Activity	Day
Trading	Rolling settlement	T (Trading day)
Clearing	Custodial confirmation and delivery generation	T + 1 working days
Settlement	Securities and funds pay – in and pay – out	T + 2 working days
Post settlement	Auction	T + 3 working days
	Bad delivery reporting	T + 4 working days
	Auction settlement	T + 5 working days
	Rectified bad delivery pay – in and pay – out	T + 6 working days
	Re – bad delivery reporting and pick up	T + 8 working days
	Close out of re – bad delivery and funds pay – in and pay – out	

WHAT IS PAY – IN AND PAY – OUT?

Pay – in day is the day when the sold securities are delivered to the stock exchange by the seller and funds for securities purchased are made available to the stock exchange by the buyers.

Pay – out day is the day when the purchased securities are delivered to the buyer and the funds for the securities sold are given to the seller. At present, the pay – in and pay – out happens on the 2nd working day after the trade is executed on the exchange, which is settlement cycle i. e. T + 2 rolling settlement.

FUNDS PAY – IN

Once the reconciliation of securities is completed by the Clearing House, the bank accounts of member – brokers maintained with the ten clearing banks are directly debited through computerized posting for their funds settlement obligations.

Once the pay – in of securities and funds is complete, the Clearing House arranges for the pay – out of securities and funds.

In case of those members, whose funds pay – in obligations are returned by their clearing banks on account of insufficient funds in their bank accounts at the time of pay – in, their BOLT TWSs are now immediately de – activated during the trading hours itself, on receipt of such intimation from the clearing banks as against the earlier practice of de – activating their BOLT TWSs at the end of trading on that day. BOLT (BSE online terminal) TWSs of such members remain de – activated till the pay – in obligations are cleared by them.

SECURITIES PAY – OUT

In case of demat securities, the same are credited by the Clearing House in the Pool/Principal Accounts of the member – brokers. The Exchange has also provided a facility to the member – broker for transfer of pay – out securities directly to the client's beneficiary owner accounts without routing the same through their Pool/Principal accounts in NSDL/CDSL.

	For this, the concerned member – brokers are required to give a client wise break up file which is uploaded by the member – brokers from their offices to the Clearing House. Based on the break up given by the member brokers, the Clearing House instructs depositories, viz., CDSL & NSDL to credit the securities to the Beneficiary Owners (BO) Accounts of the clients. In case delivery of securities received from one depository is to be credited to an account in the other depository, the Clearing House does an inter depository transfer to give effect to such transfers. <u>WHAT IS NO – DELIVERY PERIOD?</u> Whenever a company announces a book closure and record date, the exchange sets up a no – delivery period for that security. During this period, only trading is permitted in the securities but no settlement. It provides a market for trading in securities, debt and derivatives. It also resolves investor's grievances whether against the companies or its own member – broker. It also strives to educate and enlighten the investors by conducting investor education programmes and making available to them necessary information inputs. <u>TRADING AT BSE</u> • The scrips traded on BSE have been classified into 'A', 'B', 'T' and 'Z' groups on certain qualitative and quantitative parameters. • F Group represents the Fixed Income Securities. • T Group represents scrips which are settled on a trade – to – trade basis as a surveillance measure. • Trading in Government Securities by the retail investors is done under the G group. • Z group scrips include companies which have failed to comply with the listing agreements and/or also failed to resolve investors compliant and/or have not made the required agreement with both depositories i. e. CDSL & NDSL for dematerialization of shares.
BASKET TRADING SYSTEM (June 2016, Dec 2011, June 2010, June 2007)	In the Basket Trading System, an investor can buy and sell all 30 scrips of SENSEX in one go in the proportion of their respective weights in the BSE SENSEX. The investors need not to calculate the quantity of BSE SENSEX scrips to be bought or sold for creating sensdex linked portfolios. This function is performed by the online system. To participate in this system, the member brokers need to indicate number of sensdex basket to be bought or sold, where the value of one sensdex basket is arrived by the system by multiplying Rs.50 to prevailing system. Example: If the BSE SENSEX is 19000, the value of one basket of sensdex would be: $19000 \times 50 = 9,50,000/-$. Note: The investors can alter the weights of securities in such profiled baskets and enter their own weights. The investors can also select less than 100% weightage to reduce the value of the basket as per their own requirements.
SURVEILLANCE	<u>SURVEILLANCE AT BSE</u> A Stock Exchange not only promotes trading of securities but also monitor the price and volume movement of securities. The monitoring process is known as surveillance. The main objective of the Surveillance function of the Exchange is to promote market integrity in two ways: - By monitoring price and volume movements; - By detecting potential market abuses. Price monitoring is mainly related to abnormal movement of price of particular scrips in

the Stock Exchange. Volume monitoring relates to abnormal positions of a member (Broker) i. e. purchase of abnormal quantity by a broker.

OBJECTS

- (i) Stock Exchange is to monitor price and volume movement as well as also detecting potential market abuse.
- (ii) To control market abuse.
- (iii) To manage default risk by taking necessary action.

In short, surveillance means detection of the possible market abuse in respect of price movement/abnormal fluctuation in prices or volumes.

WHAT IS MARKET ABUSE? (December 2018)

Market abuse means abnormal price/volume movement, artificial transactions, false or misleading impression and insider trading etc.

To stop such practices in the stock market, the stock exchange has introduced the system of surveillance. The following action can be taken by the stock exchanges to control market abuses:

- (i) Imposition of Special Margin
- (ii) Reduction of Circuit Filters
- (iii) Suspension, and
- (iv) Deactivation of Terminal of Broker

PRICE MONITORING (JUNE 2011, DEC 2009)

ON – LINE SURVEILLANCE: (June 2019)

Online surveillance system has facility to generate the alerts on – line, in real time, based on certain preset parameters like price & volume variations in scrips, members taking unduly large positions not commensurate with their financial position in one or two scrips. It alerts immediately to the officials of Stock Exchange about the abnormal behavior of members.

OFF – LINE SURVEILLANCE:

The Off – Line Surveillance system is based on various reports like High/Low Difference in prices, Percentage change in prices over a week/fortnight/month, trading in infrequently traded scrips and scrips hitting New High/Low.

DERIVATIVE MARKET SURVEILLANCE:

Under this category, the focus areas are like abnormal fluctuation in the prices of a Series, Market Movement (Cash vis – a – vis Derivative), Member Concentration (Cash vis – a – vis Derivative) and Closing Price Manipulation (Cash & Derivative).

INVESTIGATION:

The Exchange conducts in – depth investigations based on preliminary enquiries/analysis made into trading of the scrip and also at the instance of SEBI.

SURVEILLANCE ACTION: (December 2017) (8 Marks)

(i) SPECIAL MARGINS:

Special margin may be imposed by BSE from time to time on certain Securities as a surveillance measure and informed to the Members through notices.

Special margins are imposed on stocks which witness abnormal movement in price or volume. It is a surveillance measure intended to check speculative activity in particular scrip. At the BSE, the margin is levied at 25% or 50%.

This largely depends on the sharpness in the movement of share price or volumes,

client wise net outstanding purchase or sale position or on both sides.

(ii) CONCEPT OF CIRCUIT AND CIRCUIT BREAKERS:

Stock prices of companies listed on the stock exchanges are influenced by several factors like company financials, investor's perception of the company's growth, industry trends, government regulations and market speculation etc.

Some factors are predictable and can be studied and analyzed using statistical tools like graphs and techniques like ratio analysis, trend analysis, theory of probability etc. Certain other factors and their influence on prices of a particular stock of the market in general and the degree of their impact are completely unpredictable.

Since market sentiments cannot be predicted accurately and their impact on stock prices is difficult to judge, sometimes the movement of stock prices can beat all logic and move tremendously in any direction. Circuit Breaker is a surveillance system to maintain the unnecessary volatility in the stock market.

WHAT IS A CIRCUIT?

Circuits are of two types – circuit for an index and for a stock. So, if an index or the price of a stock increases or declines beyond a specified threshold it is said to have entered into a circuit. SEBI specifies this threshold as a percentage of the prior day's closing figures.

WHAT IS A CIRCUIT BREAKER? (June 2013)

Factors like market speculations force stock prices or indices to enter into a circuit. Such a condition is beyond the control of regulatory authorities. Hence they use the circuit breaker to curb such market situations. Circuit breaker, simply put, is a set of rules formed and issued by SEBI in order to bring back normalcy in the stock markets in the event an index or stock enters into a circuit. SEBI has different circuit breakers for indices and for stocks.

CIRCUIT BREAKER FOR AN INDEX

Circuit breakers are applied only on equity and equity derivative markets. Whenever the major stock indices like BSE Sensex and Nifty cross the threshold level, SEBI rules require that the trading at the stock exchange be stopped for a certain period of time beginning from half an hour to even an entire day. The idea is to allow the market to cool down and resume trading at normal levels. The following threshold limits are implemented at different stages:-

Movement in Indices	Time	Close period
10%	Before 1.00 pm	1 hour
	1.00 pm to 2.30 pm	½ hour
	After 2.30 pm	Does not close
15%	Before 1.00 pm	2 hour
	1.00 pm to 2.30 pm	1 hour
	After 2.30 pm	Close for the rest of the day
20%	Any time	Close for the rest of the day

CIRCUIT BREAKER FOR A STOCK

A price range for a stock to move without any interference from regulatory authorities. Only when the stock prices move beyond the range, it is considered as entering into a circuit and circuit breakers are applied. Daily price bands of 2%, 5% and 10% are applicable to different equity stocks. Price bands of 20% are applicable to all remaining scrip like preference shares or debentures.

WHAT ARE AN UPPER CIRCUIT AND LOWER CIRCUIT?

Stock prices can either move up or down and hence circuit breakers are required for movements in both directions. An upward movement over the threshold will cause a stock to enter into an upper circuit. Similarly a downward movement in stock price beyond the threshold will cause a stock to enter into a lower circuit.

Reduction of Circuit Filters: The circuit filters are reduced in case of illiquid Securities or as a price containment measures. The circuit filters are reduced to 10% or 5% or 2%, as the case may be, based on the criteria decided by the Surveillance Department of the Stock Exchanges. No circuit filters are applicable on Securities on which derivative products are available.

(iii) **Trade to trade (June 2012):** Trade – to – trade (T2T) or T segment on BSE is segment in which no intra – day trading is allowed. It means in this category, securities can only be bought on delivery basis. Transactions placed in this segment have to be mandatorily settled on gross basis i. e. by taking or giving delivery even if you have bought and sold the shares during the same settlement cycle.

Example: If you buy shares, you must pay the money and take delivery. If you sell shares, you must give the delivery of shares and you will get money.

If you buy today and sell today and don't have delivery, then the sell position will go into auction and you will have to pay heavy penalty.

(iv) **Suspension of Scrip:** It is a method to stop the trading of shares of listed companies for temporary period for the violation of rules & regulations of Stock Exchanges.

(v) **Warning to Members (Broker):** Stock exchanges may also take action against its members who are indulged in the activities of artificial speculation.'

(vi) **Imposition of penalties/deactivation of terminals of members:**

Rumor Verification: Steps Involved in Rumor Verification:

(i) Surveillance Department liaises with Companies Officers of companies to obtain comments of the company on various price sensitive corporate news items appearing in the selected New Papers.

(ii) Comments received from the companies are disseminated to the Market by way of BOLT Ticker and/or Notices in the Bulletin.

(iii) Show cause notices are issued to companies which do not reply promptly to the Exchange.

Pro – active Measure:

The Department compiled and disseminated a list of companies who have changed their names to suggest that their business interest is in the software Industry.

Position Monitoring:

- (i) Statement of top 100 purchasers/dealers
- (ii) Concentrated Purchase/sales
- (iii) Purchases/sales of scrips having thin trading
- (iv) Pay – in liabilities above a threshold limit
- (v) Verification of Institutional Trades
- (vi) Snap investigation
- (vii) Market intelligence

**TRADING AND
SETTLEMENT AT**

NIFY:

- National Stock Exchange Fifty or Nifty is the market indicator of NSE.

NSE	• It is a collection of 50 stocks. It is also referred to as Nifty 50. • it is owned and managed by India Index Services and Products Ltd. (IISL). • Nifty is calculated through the free-float market capitalization weighted method. It multiplies the Equity capital (expressed in terms of number of shares outstanding) with a price to derive the market capitalization. • To determine the Free-float market capitalization, equity capital (as stated earlier) is multiplied by a price which is further multiplied with IWF which is the factor for determining the number of shares available for trading freely in the market. • The Index is determined on a daily basis by taking into consideration the current market value (free float market capitalization) divided by base market capital and then multiplied by the Base Index Value of 1000. <u>National Exchange for Automated Trading (NEAT): (Dec 2009)</u> ⇒ NSE uses fully automated screen based trading & provides modern, fully computerized trading system designed to offer investors across length & breadth of country a safe and easy way to invest. ⇒ The NSE trading system called 'National Exchange for Automated Trading' (NEAT) is fully automated screen based trading system, which adopts the principle of an <u>order driven market</u>. ⇒ The system matches the orders received and executed on a price time priority basis systematically. ⇒ The orders are entered combining time, price and quantity conditions. <u>NATIONAL SECURITIES CLEARING CORPORATION LIMITED (NSCCL):</u> This company incorporated as a wholly owned subsidiary of the National Stock Exchange of India Limited carries out: (i) Clearing & settlement of trades executed in capital market segment of NSE. (ii) Completing the settlement promptly without delay or deferment. (iii) Operating on behalf of the clearing members from and to regional clearing centres and central clearing centres at Mumbai. (iv) Detecting bad papers in the form of fake or forged certificates or lost and stolen share certificates through the automated mechanism of the clearing corporation. <u>CLEARING MECHANISM</u> NSCCL carries out clearing and settlement functions. Trades in rolling segment are cleared and settled on a netted basis. Trading and settlement periods are specified by the Exchange/Clearing Corporation from time to time. Deals executed during a particular trading period are netted at the end of that trading period and settlement obligations for that settlement period are computed.
STRAIGHT THROUGH PROCESSING (STP) (Dec 2017, June 2015, Dec 2007)	❖ STP is a mechanism that automates end to end processing of transactions of financial instruments. It involves use of a system to process all elements of the work flow of a financial transaction, what are commonly known as the Front, Middle, Back office and General Ledger. ❖ It enables the entire trade process for capital market and payment transactions to be conducted electronically without manual intervention, subject to legal and regulatory restrictions. ❖ The process was developed by James Karat in the early 90's and the concept has also been transferred into other sectors including energy (oil, gas) trading and banking, and financial planning. ❖ Currently, the entire trade cycle, from initiation to settlement, is a complex manual process, will take several days. Such processing for equities transactions is commonly referred to as T + 2 processing, as it usually takes three business days from the "Trade" being executed to the trade being settled. ❖ The goal of STP is to minimize settlement risk for the executive of a trade and its settlement and clearing to occur simultaneously. ❖ In short, STP allows electronic capturing and processing of transactions in one go

	from the point of order origination to final settlement. <u>ADVANTAGES OF STRAIGHT THROUGH PROCESSING</u> (i) Reduced risk (ii) Automation of manual process minimizing errors (iii) Improved operational efficiency in handling larger volumes (iv) Facilitates movement towards shorter settlement cycles (T + 1) (v) Lower cost per trade (vi) Timely settlement of trades and instructions (vii) Eliminates paper work and minimizes manual intervention (viii) Enables increased cross border trading (FII trades) (ix) Greater transparency with clear audit trail (x) Increases competitive advantage of our markets (xi) Messaging standards as per ISO 15022 standards
DIRECT MARKET ACCESS (DMA)	❖ This is a facility which allows brokers to offer clients direct access to the exchange trading system through the broker's infrastructure without manual intervention by the broker. ❖ DMA is a term used in financial markets to describe electronic trading facilities that give investors wishing to trade in financial instruments a way to interact with the order book of an exchange. ❖ In simple words, DMA means that when you place a trade online, your order is sent directly to the stock exchange for execution. You may be surprised to discover that this is not how online trading always works, but in fact DMA has only been available for retail investors for a relatively short time. <u>ADVANTAGES OF DMA:</u> (i) Direct Control of Clients over Orders, (ii) Faster Execution of Client Orders, (iii) Reduced Risk of Errors associated with Manual Order Entry, (iv) Greater Transparency, (v) Increased Liquidity, (vi) Lower Impact Costs for Large Orders, (vii) Better Audit Trails, and (viii) Better use of Hedging and Arbitrage opportunities through the use of decisions support tools/algorithms for trading. The Stock Exchanges may facilitate Direct Market Access for investors subject to the following conditions: ➤ <u>Application for Direct Market Access (DMA) Facility:</u> Brokers shall apply to the respective stock exchanges giving details of the software and systems proposed to be used. The stock exchange should grant approval or reject the application, as the case may be, and communicate its decision within 30 calendar days. ➤ <u>Operational Specifications:</u> All DMA orders shall be routed to the exchange trading system through the broker's trading system. The broker should ensure sound audit trail for all DMA orders and trades, and be able to provide identification of actual user – id for all such orders and trades. The audit trail data should be available for at least 5 years. Exchanges should be able to identify and distinguish DMA orders and trades from other orders and trades. Exchanges shall maintain statistical data on DMA trades and provide information on the same to SEBI on a need basis. The DMA system shall have sufficient security features including login ID and password. The Brokers should follow similar logic/priorities used by the Exchange

	to treat DMA client orders. The Brokers should also maintain all activities/alerts log with audit trail facility. The DMA Server should have internally generated unique numbering for all such client order/trades. A systems audit of the DMA systems and software shall be periodically carried out by the broker. The exchanges and brokers should provide for adequate systems and procedure to handle the DMA trades. ➤ <u>Client Authorization and Broker – Client Agreement:</u> The broker shall enter into a specific agreement with the clients for whom they permit DMA facility which will include the following safeguards:- (i) The client shall use the DMA facility only to execute his own trades and shall not use it for transactions on behalf of any other person/entity. (ii) Electronic/Automated Risk management at the broker's level before release of order to the Exchange system. (iii) Right to withdraw DMA facility if the limits set up are breached or for any other such concerns. (iv) Withdrawal of DMA facility on account of any misuse or on instructions from SEBI/Exchange.
SME EXCHANGE (June 2017, Dec 2015, Dec 2013)	SME Exchange means a trading platform of a recognized stock exchange having nationwide trading terminals permitted by SEBI to list the specified securities issued in accordance with SEBI (ICDR) Regulation and includes stock exchange granted recognition for this purpose but does not include the Main Board. Here Main Board means a recognized stock exchange having nationwide trading terminals, other than SME exchange. The two stock exchanges of India i. e. Bombay Stock Exchange (BSE) and National Stock Exchange (NSE) have begun their SME listing platforms. <u>BENEFITS OF LISTING ON SME EXCHANGE</u> (i) Access to capital and future financing opportunities. (ii) Going public would provide the MSME's with equity financing opportunities to grow their business – from expansion of operations to acquisitions. (iii) Companies in the growth phase tend to get over – leveraged at which point, banks are reluctant to provide further credit. Equity capital is then necessary to bring back strength to the balance sheet. The option of equity financing through the equity market allows the firm to not only raise long – term capital but also get further credit due through an additional equity infusion. The issuance of public shares expands the investor base, and this in turn will help to set the stage for secondary equity financings, including private placements. In addition, Issuers often receive more favourable lending terms when borrowing from financial institutions. <u>INCREASED VISIBILITY AND PRESTIGE</u> Going public is likely to enhance the company's visibility. Greater public awareness gained through media coverage, publicity filed documents and coverage of stock by sector investment analysts can provide the SME with greater profile and credibility. <u>VENTURE CAPITAL (VC)</u> A vibrant equity market would provide proof to be an added incentive for greater venture capital participation by providing an exit option leading to a reduction in their lock – in period.

	<u>LIQUIDITY FOR SHAREHOLDERS</u> Becoming a public company establishes a market for the company's shares, providing its investors with an efficient and regulated vehicle in which to trade their own shares. Greater liquidity in the public market can lead to better valuation for shares than would be seen through private transactions. <u>CREATE EMPLOYEE INCENTIVE MECHANISMS</u> The employees of the SME enterprises can participate in the ownership of their own company and benefit from being a shareholder. <u>FACILITATE GROWTH THROUGH MERGERS AND ACQUISITIONS</u> As a public company, company's shares can be utilized as an acquisition currency to acquire target companies, instead of a direct cash offering. Using shares for an acquisition can be a tax efficient and cost effective vehicle to finance such a transaction. <u>ENCOURAGES INNOVATION & ENTREPRENEURIAL SPIRIT</u> The ability of companies in their early stages of development to raise funds in the capital markets allows these companies to grow very quickly. <u>EFFICIENT RISK DISTRIBUTION</u> The development of the capital markets has helped distribution risk more efficiently by transfer of risk to those best able to bear it.
ALGORITHMIC TRADING (Dec 2016, June 2014)	✓ Algorithmic trading (algo) in stock market parlance refers to orders generated at a super – fast speed by use of advanced mathematical models that involve automated execution of trade. This method of trading is mostly used by large institutional investors. The high frequency trading exposes the market to possible systemic (Universal) risks. ✓ Any order that is generated using automated execution logic shall be known as algorithmic trading. With the increasing trend amongst capital market players of generating orders through automated execution logic called Algorithmic Trading. ✓ SEBI have formulated broad guidelines to be followed by both Stock Exchanges and Stock Brokers for algorithmic trading and help to keep pace with the speed of trade and volume of data that may arise through it. Broadly the Guidelines provide for following Directions to Stock Exchanges amongst others: (i) To have arrangements, procedures and systems to adequately manage the trade load of algorithm orders. (ii) To put in place effective economic disincentive with regard to high daily order to trade ration of algorithm orders. (iii) To ensure all trades are routed through servers of stock brokers located in India only. (iv) To have appropriate risk control mechanisms covering price band check and quantity limit check. (v) To report algorithmic trading details in the Monthly Development Report submitted to SEBI. (vi) To ensure that the stock brokers provide the facility of algorithmic trading only after obtaining prior permission of the stock exchanges.

UNIT 5: DEBT MARKETS

INTRODUCTION	Debt market is a market for issue, trade and settlement of various types of debts like deposits, debentures and Bonds. The debt market in India comprises mainly two segments viz., the Government securities market and the corporate securities market. In other words, Debt markets are markets for the issuance, trading and settlement in fixed income securities of various types and features. Fixed income securities can be issued by almost any legal entity like Central and State Governments, public bodies, statutory corporations, banks & institutions & corporate bodies. Even the debt securities are also tradable at the National Stock Exchange and Bombay Stock Exchange and the debt securities are listed on stock securities like equity shares.
DEBT MARKET INSTRUMENTS	
DEBENTURE	A Debenture is a debt security issued by a company, which offers to pay interest in lieu of the money borrowed for a certain period. In essence it represents a loan taken by the issuer who pays an agreed rate of interest during the lifetime of the instrument and repays the principal normally, unless otherwise agreed, on maturity. Generally, the long – term debt instruments are being issued by private sector companies, in denominations as low as Rs.1000 and have maturities ranging between 1 and 10 years. Debentures enable investors to reap the dual benefits of adequate security and good returns. Unlike other fixed income instruments, Debentures can be transferred from one party to another. For more details refer Chapter – 2. <u>Types of Debentures:</u> (i) Non-Convertible Debentures (NCDs) (ii) Partly Convertible Debentures (PCDs) and Fully Convertible Debentures (FCDs) (iii) Optionally Convertible Debentures (OCDs) (iv) Secured Debentures and Unsecured Debentures
DEFINITION OF DEBT SECURITIES	“Debt securities” means: ❖ non-convertible debt securities ❖ which create or acknowledge indebtedness and ❖ includes debentures, bonds and such other securities of a body corporate or a Trust registered with SEBI as a Real Estate Investment Trust or an Infrastructure Investment Trust, or any statutory body constituted by virtue of a legislation, ❖ whether constituting a charge on the assets of the body corporate or not, ❖ but excludes bonds issued by Government or such other bodies as may be specified by SEBI, security receipts and securitized debt instruments;”
FIXED INCOME PRODUCTS	<u>Deposit:</u> Deposits serve as medium of saving and as a means of payment and are very important for financial health of any economy. A bank basically offers three types of deposits, i. e. Time deposit, Current deposit and Savings deposit. <u>Fixed Deposit:</u> Fixed Deposit refers to a certificate of deposit that pays a fixed rate of interest till maturity. Funds placed in a Fixed Deposit usually cannot be withdrawn prior to maturity. The fixed deposit holder can be penalized by the Bank for pre – mature withdrawal. Fixed Deposits are sums accepted by most of the NBFCs and banks. The deposits offered by Bank are insured up to a maximum of Rs.1,00,000/- whereas deposits accepted by the NBFCs are not insured.

INTEREST BASED BONDS	<u>Coupon Bonds</u>: Coupon Bonds typically pay interest periodically at the pre – specified rate of interest. The annual rate at which the interest is paid is known as the coupon rate or simply the coupon. Interest is usually paid half – yearly though in some cases it may be monthly, quarterly, annually or at some other periodicity. The dates on which the interest payments are made are known as the coupon due dates. <u>Zero Coupon Bonds</u>: A plain bond is offered at its face value, earns a stream of interest till redemption and is redeemed with or without a premium at maturity. It is issued at a discount to its face value, fetches no periodic interest and is redeemed at the face value at maturity.
DERIVED INSTRUMENTS	<u>Mortgage Bonds: (June 2019)</u> ✓ Mortgage backed bonds is a collateralized term – debt offering. ✓ Every issue of such bonds is backed by pledged collateral. ✓ Property that can be pledged as security for mortgage bonds is called eligible collateral. ✓ The terms of these bonds are like the bonds floated in the capital market, semi – annual or quarterly payments of interest and final bullet payment of principal. ✓ Example: A bank offering home loan might round up Rs.20 crore worth of such loans. That pool is then sold to a Government Agency or a government sponsored – enterprise (GSE), or to others to be used as the collateral for the new Mortgaged Bonds. <u>PASS THROUGH CERTIFICATES (PTC): (Dec 2008, June 2010)</u> ✓ When mortgages are pooled together and undivided interest in the pool is sold, pass – through securities are created. ✓ The pass – through securities promise that the cash flow from the underlying mortgages would be passed through to the holders of the securities in the form of monthly payments of interest and principal. ✓ A pass – through certificate (PTC) is an instrument that evidences the ownership of two or more equipment trust certificates. ✓ In other words, equipment trust certificates may be bundled into a pass – through structure as a means of diversifying the asset pool and/or increasing the size of the offering. ✓ Example: Banks provide mortgages to borrowers, and then Banks place a group of these mortgages in a large investment and sell it to another financial institution. The interest from all of these mortgages represents the pass – through certificate as the holder of the note receives the money. This process can be quite complex and creates some difficulty for the financial institutions involved. <u>PARTICIPATION CERTIFICATES:</u> ✓ These are strictly inter – bank instruments confined to the Scheduled Commercial Banks. ✓ This instrument is a money market instrument with a tenure not exceeding 90 days. ✓ The interests on such participation certificate are determined by the two contracting banks. ✓ In other words, A Participation Certificate (PC) is a financial instrument, a form of financing, used by municipal or government entities which allows an individual to buy a share of the lease revenue of an agreement made by these entities. ✓ Participation certificate is a new form of credit instrument whereby banks can raise funds from other banks and other central bank approved financial institutions to ease liquidity. ✓ In this case banks have the option to share their credit asset(s) with other banks by issuing participation certificates. ✓ With this participation approach, banks and financial institutions come together either on risk sharing or non – risk sharing basis. While providing short – term funds, participation certificates can also be used to reduce risk. The rate at which

	these certificates can be issued will be negotiable depending on the interest rate scenario.
BENCHMARKED INSTRUMENTS (June 2010, Dec 2008)	There are certain debt instruments wherein the fixed income earned is based on a benchmark (i. e. MIBOR & LIBOR and for capital benchmark – NSE Nifty and BSE SENSEX). For instance, the Floating Interest rate Bonds are benchmarked to either the LIBOR, MIBOR etc. In short, a benchmark is a standard against which the performance of a security, mutual fund or investment manager can be measured. Generally, broad market and market – segment stock and bond indices are used for this purpose. Examples of Benchmark Instruments: Floating Interest Rate: (June 2010, Dec 2008) Floating rate of interest simply means that the rate of interest is variable. Periodically the interest rate payable for the next period is set with reference to a benchmark market rate agreed upon by both the lender and the borrower. The benchmark market rate is the State Bank of India Prime Lending Rate in domestic markets and LIBOR or US Treasury Bill Rate in the overseas markets. Inflation linked Bonds: (June 2010, Dec 2008) A bond is considered indexed for inflation if the payments on the instrument are indexed by reference to the change in the value of a general price or wage index over the term of the instrument. The options are that either the interest payments are adjusted for inflation or the principal repayment or both.
INVESTORS IN DEBT MARKET (DEC 2011, DEC 2010)	BANKS: Collectively all the banks put together are the largest investors in the debt market. They invest in all instruments ranging from T – Bills, CPs and CDs to GOISECs, private sector debentures etc. Banks lend to corporate sector directly by way of loans and advances and also invest in debentures issued by the private corporate sector and in PSU bonds. PROVIDENT FUNDS: Provident funds are estimated to be the third largest investors in the debt market. Investment guidelines for provident funds are being progressively liberalized and investment in private sector debentures is one step in this direction. Most of the provident funds are very safety oriented and tend to give much more weightage to investment in government securities although they have been considerable investors in PSU bonds as well as State Government backed issues. INSURANCE COMPANIES: The second largest category of investors in the debt market is the insurance companies. MUTUAL FUNDS: Mutual Funds represent an extremely important category of investors. World over, they have almost surpassed banks as the largest direct collector of primary savings from retail investors and therefore as investors in the wholesale debt market. Mutual Funds include the Unit Trust of India, the mutual funds set up by nationalized banks and insurance companies as well as the private sector mutual funds set up by corporate and overseas mutual fund companies. TRUSTS: Trusts include religious and charitable trusts as well as statutory trusts formed by the government and quasi government bodies. Religious trusts and Charitable trusts range from the very small ones to large ones. There are very few instruments in which trusts are allowed to invest. Most of the trusts invest in CDs of banks and bonds of financial institutions and units of Unit Trust of India. FOREIGN INSTITUTIONAL INVESTORS: India does not allow capital account convertibility either to overseas investors or to domestic residents. Registered FIIs are exception to this rule. FIIs have to be specifically and separately approved by SEBI for

	equity and debt. Each debt FII is allocated a limit every year up to which it can invest in Indian debt securities. They are also free to disinvest any of their holdings, at any point of time, without prior permission. RETAIL INVESTORS: Since January, 2002, retail investors have been permitted to submit non – competitive bids at primary auction through any bank or PD. CORPORATE TREASURIES: Corporate Treasuries have become prominent investors only in the last few years. Treasuries could be either those of the public sector units or private sector companies or any other government bodies or agencies. The treasuries of PSUs as well as the governmental bodies are allowed to invest in papers issued by DFIs and banks as well as GOISECs of various maturities. In complete contrast to public sector treasuries, those in the private sector invest in CDs of banks and CPs of other private sector companies, GOISECs as well as debentures of other private sector companies. Of late, preference shares of DFIs and open – ended mutual funds have also become popular with these treasuries.
DEBT MARKET INTERMEDIARIES/ PARTICIPANTS	PRIMARY DEALERS: Primary dealer (PDs) are important intermediaries in the government securities markets. They act as underwriters in the primary market, and as market makers in the secondary market. PDs underwrite a portion of the issue of government security that is floated for a pre – determined amount. BROKERS: Brokers play an important role in secondary debt market by bringing together counterparties and negotiating terms of the trade. It is through them that the trades are entered on the stock exchanges. The brokers are regulated by the stock exchanges and also by SEBI.
DEBT MARKET IN INDIA: REGULATORY FRAMEWORK	REGULATORY FRAMEWORK (i) The Public Debts Act, 1944: This Act governs the Government Debt Market. (ii) SEBI Regulations: SEBI Regulations are only applicable to Listed Debt Securities. (iii) RBI Guidelines. REGULATORS (i) Union & State Government (ii) Ministry of Finance, Government of India (iii) Reserve Bank of India (iv) SEBI The Union Government and the State Governments have been empowered to borrow money upon the security of the Consolidated Fund of India and the States from the Market within permissible limits. The Union Government debt consists of three components, internal debt, external debt and other liabilities. The Reserve Bank of India manages the public debt and issues new loans on behalf of Union and the State Governments under the powers derived from the Reserve Bank of India Act and The Public Debts Act, 1944. SEBI controls bond market and corporate debt market in cases where entities raise money from public through public issues. It regulates the manner in which such moneys are raised and ensure a fair play for the retail investor. Apart from the two main regulators, the RBI and SEBI, the other regulators are the Central Provident Fund Commissioner and the Ministry of Labour. The Central Provident Fund Commissioner and the Ministry of Labour regulate the Provident Funds.
DAY COUNT CONVENTION FOR INTEREST PAYMENT	SEBI has provided certain clarifications on aspects related to day count convention for debt securities issued under the SEBI (Issue and Listing of Debt Securities) Regulations, 2008.

	a) If the interest payment date falls on a holiday, the payment may be made on the following working day however the dates of the future coupon payments would be as per the schedule originally stipulated at the time of issuing the security. In other words, the subsequent coupon schedule would not be disturbed merely because the payment date in respect of one particular coupon payment has been postponed earlier because of it having fallen on a holiday. b) In order to ensure consistency for interest calculation, a uniform methodology shall be followed for calculation of interest payments in the case of leap year, which shall be as follows: In case of a leap year, if February 29 falls during the tenor of a security, then the number of days shall be reckoned as 366 days (Actual/Actual day count convention) for a whole one year period, irrespective of whether the interest is payable annually, half yearly, quarterly or monthly etc. It is thus emphasized that for a half yearly interest payment, 366 days would be reckoned twice as the denominator; for quarterly interest, four times and for monthly interest payment, twelve times. c) In order to ensure uniformity for payment of interest/redemption with respect to debt securities, interest/redemption payments shall be made only on the days when the money market is functioning in Mumbai.
GREEN DEBT SECURITIES	Meaning of Green Debt Securities A Debt Security shall be considered as “Green or Green Debt Securities”, if the funds raised through issuance of the debt securities are to be utilized for project(s) and/or asset(s) falling under any of the following broad categories: - Renewable and sustainable energy including wind, solar, bioenergy, other sources of energy which use clean technology etc.; - Clean transportation including mass/public transportation etc.; - Sustainable water management including clean and/or drinking water, water recycling etc.; - Climate change adaptation; - Energy efficiency including efficient and green buildings etc.; - Sustainable waste management including recycling, waste to energy, efficient disposal of wastage etc.; - Sustainable land use including sustainable forestry and agriculture, afforestation etc.; - Biodiversity conservation; - Any other category as may be specified by SEBI, from time to time. Obligations of the issuer An issuer of Green Debt Securities shall: - Maintain a decision-making process which it uses to determine the continuing eligibility of the project(s) and/or asset(s). This includes, without limitation a statement on the environmental objectives of the Green Debt Securities and a process to determine whether the project(s) and/or asset(s) meet the eligibility requirements. - Ensure that all project(s) and/or asset(s) funded by the proceeds of Green Debt Securities, meet the documented objectives of Green Debt Securities. - Utilized the proceeds only for the stated purpose, as disclosed in the offer document. An issuer of Green Debt Securities or any agent appointed by the issuer, if follows any globally accepted standard(s) for the issuance of Green Debt Securities including measurement of the environmental impact, identification of the project(s) and/or asset(s), utilization of proceeds, etc., shall disclose the same in the offer document/disclosure document and/or in continuous disclosures.

ISSUE & LISTING OF DEBT SECURITIES REGULATIONS 2008

APPLICABILITY	These regulations shall apply to- (a) public issue of debt securities; and (b) listing of debt securities issued through public issue or on private placement basis on a recognized stock exchange.
GENERAL CONDITIONS	(1) No issuer shall make any public issue of debt securities if as on the date of filing of draft offer document or final offer document as provided in these regulations: (a) the issuer or the person in control of the issuer or its promoter or its director is restrained or prohibited or debarred by the Board from accessing the securities market or dealing in securities; or (b) the issuer or any of its promoters or directors is a wilful defaulter or it is in default of payment of interest or repayment of principal amount in respect of debt securities issued by it to the public, if any, for a period of more than six months. (2) No issuer shall make a public issue of debt securities unless following conditions are satisfied, as on the date of filing of draft offer document and final offer document as provided in these regulations, (a) it has made an application to one or more recognized stock exchanges for listing of such securities therein: Provided that where the application is made to more than one recognized stock exchanges, the issuer shall choose one of them as the designated stock exchange; Provided further that where any of such stock exchanges have nationwide trading terminals, the issuer shall choose one of them as the designated stock exchange; Explanation: For any subsequent public issue, the issuer may choose a different stock exchange as a designated stock exchange subject to the requirements of this regulation; (b) it has obtained in-principle approval for listing of its debt securities on the recognized stock exchanges where the application for listing has been made; (c) credit rating has been obtained from at least one credit rating agency registered with the Board and is disclosed in the offer document: Provided that where credit ratings are obtained from more than one credit rating agencies, all the ratings, including the unaccepted ratings, shall be disclosed in the offer document; (d) it has entered into an arrangement with a depository registered with the Board for dematerialization of the debt securities that are proposed to be issued to the public, in accordance with the Depositories Act, 1996 and regulations made thereunder. (3) The issuer shall appoint one or more merchant bankers registered with the Board at least one of whom shall be a lead merchant banker. (4) The issuer shall appoint one or more debenture trustees in accordance with the provisions of Section 117B of the Companies Act, 1956 (1 of 1956) and Securities and Exchange Board of India (Debenture Trustees) Regulations, 1993. (5) The issuer shall not issue debt securities for providing loan to or acquisition of shares of any person who is part of the same group or who is under the same management.

TRUST DEED (REGULATION 15)	(1) A trust deed for securing the issue of debt securities shall be executed by the issuer in favour of the debenture trustee within three months of the closure of the issue. (1A) Where an issuer fails to execute the trust deed within the period specified in the sub-regulation (1), without prejudice to any liability arising on account of violation of the provisions of the Act and these Regulations, the issuer shall also pay interest of at least two percent per annum to the debenture holder, over and above the agreed coupon rate, till the execution of the trust deed. (1B) A clause stipulating the requirement under sub-regulation (1A) shall form part of the Trust Deed and also be disclosed in the Offer Document. (Clause 1A & 1B Inserted w.e.f 07.05.2019) (2) The trust deed shall contain such clauses as may be prescribed under of the Companies Act, 2013 and those mentioned in Schedule IV of the Securities and Exchange Board of India (Debenture Trustees) Regulations, 1993. (3) The trust deed shall not contain a clause which has the effect of – (i) limiting or extinguishing the obligations and liabilities of the debenture trustees or the issuer in relation to any rights or interests of the investors; (ii) limiting or restricting or waiving the provisions of the Act , these regulations and circulars or guidelines issued by the Board; (iii) indemnifying the debenture trustees or the issuer for loss or damage caused by their act of negligence or commission or omission.
DEBENTURE REDEMPTION RESERVE (REGULATION 16)	(1) For the redemption of the debt securities issued by a company, the issuer shall create debenture redemption reserve <u>in accordance with the provisions of the Companies Act, 2013</u> and circulars issued by Central Government in this regard. (2) Where the issuer has defaulted in payment of interest on debt securities or redemption thereof or in creation of security as per the terms of the issue of debt securities, any distribution of dividend shall require approval of the debenture trustees.
CREATION OF SECURITY (REGULATION 17)	(1) The proposal to create a charge or security , if any, in respect of secured debt securities shall be disclosed in the offer document along with its implications. (2) The issuer shall give an undertaking in the offer document that the assets on which charge is created are free from any encumbrances and if the assets are already charged to secure a debt, the permissions or consent to create second or pari pasu charge on the assets of the issuer have been obtained from the earlier creditor. (3) The issue proceeds shall be kept in an escrow account until the documents for creation of security as stated in the offer document, are executed.
RIGHT TO RECALL OR REDEEM PRIOR TO MATURITY (REGULATION 17A)	An issuer making public issue of debt securities may recall such securities prior to maturity date at his option (call) or provide such right of redemption prior to maturity date (put) to all the investors or only to retail investors, at their option, subject to the following: a) Such right to recall or redeem debt securities prior to maturity date is exercised in accordance with the terms of issue and detailed disclosure in this regard is made in the offer document including date from which such right is exercisable, period of exercise (which shall not be less than three working days), redemption amount (including the premium or discount at which such redemption shall take place);

	b) The issuer or investor may exercise such right with respect to all the debt securities issued or held by them respectively or with respect to a part of the securities so issued or held ; c) In case of partial exercise of such right in accordance with the terms of the issue by the issuer , it shall be done on proportionate basis only; d) No such right shall be exercisable before expiry of twenty four months from the date of issue of such debt securities; e) Issuer shall send notice to all the eligible holders of such debt securities at least twenty one days before the date from which such right is exercisable; f) Issuer shall also provide a copy of such notice to the stock exchange where the such debt securities are listed for wider dissemination and shall make an advertisement in the national daily having wide circulation indicating the details of such right and eligibility of the holders who are entitled to avail such right ; g) Issuer shall pay the redemption proceeds to the investors along with the interest due to the investors within fifteen days from the last day within which such right can be exercised; h) Issuer shall pay interest at the rate of fifteen per cent. per annum for the period of delay, if any, i) After the completion of the exercise of such right, the issuer shall submit a detailed report to the stock exchange for public dissemination regarding the debt securities redeemed during the exercise period and details of redemption thereof. Explanation.- For the purpose of this regulation, retail investor shall mean the holder of debt securities having face value not more than rupees two lakh.
REDEMPTION & ROLL OVER (REGULATION 18)	(1) The issuer shall redeem the debt securities in terms of the offer document. (2) Where the issuer desires to roll-over the debt securities issued by it, it shall do so only upon passing of a special resolution of holders of such securities and give twenty one days' notice of the proposed roll over to them. (3) The notice referred to in sub- regulation (2) shall contain disclosures with regard to credit rating and rationale for roll-over. (4) The issuer shall, prior to sending the notice to holders of debt securities, file a copy of the notice and proposed resolution with the stock exchanges where such securities are listed, for dissemination of the same to public on its website. (5)The debt securities issued can be rolled over subject to the following conditions :- (a) The roll-over is approved by a special resolution passed by the holders of debt securities through postal ballot having the consent of not less than 75% of the holders by value of such debt securities; (b) atleast one rating is obtained from a credit rating agency within a period of six months prior to the due date of redemption and is disclosed in the notice referred to in sub-regulation (2); (c) fresh trust deed shall be executed at the time of such roll -over or the existing trust deed may be continued if the trust deed provides for such continuation ; (d) Adequate security shall be created or maintained in respect of such debt securities to be rolled -over.

	(6) The issuer shall redeem the debt securities of all the debt securities holders, who have not given their positive consent to the roll-over.
MANDATORY LISTING (REGULATION 19)	(1) An issuer desirous of making an offer of debt securities to the public shall make an application for listing to one or more recognized stock exchanges in terms of Companies Act, 2013. (2) The issuer shall comply with conditions of listing of such debt securities as specified in the Listing Agreement with the stock exchange where such debt securities are sought to be listed. (3) Where the issuer has disclosed the intention to seek listing of debt securities issued on private placement basis, the issuer shall forward the listing application along with the disclosures specified in Schedule I to the recognized stock exchange within fifteen days from the date of allotment of such debt securities.
LISTING AGREEMENT (REGULATION 19A)	(1) Every issuer desirous of listing its debt securities on a recognised stock exchange shall execute an agreement with such stock exchange. (2) Every issuer which has previously entered into agreements with a recognised stock exchange to list its debt securities shall execute a fresh listing agreement with such stock exchange within six months of the date of notification of Securities and Exchange Board of India (Listing Obligations and Disclosure Requirements) Regulations, 2015.
CONDITIONS OF LISTING OF DEBT SECURITIES ON PRIVATE PLACEMENT BASIS (REGULATION 20)	(1) An issuer may list its debt securities issued on private placement basis on a recognized stock exchange subject to the following conditions: (a) the issuer has issued such debt securities in compliance with the provisions of the Companies Act, 2013, rules prescribed thereunder and other applicable laws; (b) credit rating has been obtained in respect of such debt securities from at least one credit rating agency registered with the Board; (c) the debt securities proposed to be listed are in dematerialized form ; (d) the disclosures as provided in regulation 21 have been made. (e) where the application is made to more than one recognized stock exchange, the issuer shall choose one of them as the designated stock exchange. (2) The issuer shall comply with conditions of listing of such debt securities as specified in the Listing Agreement with the stock exchange where such debt securities are sought to be listed. (3) The designated stock exchange shall collect a regulatory fee as specified in Schedule V from the issuer at the time of listing of debt securities issued on private placement basis.
OBLIGATION OF DEBENTURE TRUSTEE (REGULATION 25)	(1) The debenture trustee shall be vested with the requisite powers for protecting the interest of holders of debt securities including a right to appoint a nominee director on the Board of the issuer in consultation with institutional holders of such securities. (2) The debenture trustee shall carry out its duties and perform its functions under these regulations, the Securities and Exchange Board of India (Debenture Trustees) Regulations, 1993, the trust deed and offer document, with due care, diligence and loyalty. (3) The debenture trustee shall ensure disclosure of all material events on an ongoing basis. (4) The debenture trustees shall supervise the implementation of the conditions regarding creation of security for the debt securities and debenture redemption reserve.

UNIT 6: MONEY MARKET

MONEY MARKET V. CAPITAL MARKET (June 2012)	Basis	Money Market	Capital Market
	Maturity Period	It deals with short – term funding.	It deals with long – term funding.
	Credit Instruments	Treasury bills, commercial bills, commercial papers.	Stocks, Shares, Debentures, Bonds & Corporate deposits
	Institutions involved	Government of India, Banks, Non – Banking Financial Institutions	Any Company registered in India, Bank and Insurance companies
	Purpose of loan	The money market fulfils the short – term fund requirements of Business Houses and Govt. of India.	The Capital market fulfils long – term fund requirements of Business house like expansion of business, purchase of land & building.
	Risk & liquidity	Less risk and more liquidity	More risk and less liquidity
	Market Regulation	This market is being closely regulated and controlled by RBI.	This market is less regulated by the SEBI.
FEATURES OF MONEY MARKET	(i) It is a wholesale market and involves heavy transactions which are settled on daily basis. (ii) It is a market for fulfillment of short term liquidity requirements of market participants. (iii) Govt. of India, RBI, Banks & other financial institutions are the key players of this market. (iv) It transacts the large size of Financial Instruments. (v) There are a large number of participants in the money market. (vi) The RBI occupies a strategic position in the money market. (vii) Money market provides balancing mechanism for short – term surpluses and deficiencies. It provides: (i) A balancing mechanism for short term surpluses and deficiencies. (ii) a focal point of central bank intervention for influencing liquidity in the economy; and (iii) A reasonable access to the users of short term funds to meet their requirements at realistic or reasonable price or cost. Note: This market is safe for borrowers and lenders because only persons of high standing are permitted by the RBI to enter into this market.		
GROWTH OF MONEY MARKET	Post reforms period in India has witnessed tremendous growth of Indian Money markets. Banks and other financial institutions have been able to meet the high expectations of short term funding of important sectors like the Industry, services and agriculture. Functioning under the regulation and control of RBI, the Indian money markets have also exhibited the required maturity and resilience over the years. The organization and structure of the money market has undergone a sea change in the last decade in India. This was accompanied by a growth in quantitative term also. Upto 1987, the money market consisted of 6 facets: 1. Call Money Market 2. Inter Bank Term Deposit/Loan Market 3. Participation Certificate Market; 4. Commercial Bills Market; 5. Treasury bills markets and 6. Inter Corporate Market.		

	The market had 3 main deficiencies: 1. it had a very narrow base with RBI, banks, LIC and UTI as the only participants lending funds while the borrowers were large in Number; 2. There were only few money market instruments; 3. The interest rates were not market determined but were controlled either by RBI or by a voluntary agreement between the participants through the Indian Banks Association (IBA) To set right these deficiencies, the recommendations of Chakravarthy Committee and Vaghul Committee laid foundation for systematic development of Indian Money Market. The implementation of the suggestions of the respective committees has widened and deepened the market considerably by increasing the number of participants and instruments and introducing market determined rates as against the then existing administered or volunteered interest rates. Further, an active secondary market for dealings of money market instrument was created which positively impacted the liquidity of these instruments. For this purpose, the Discount and Finance House of India Limited was formed as an autonomous financial intermediary in April 1988 to embellish the short term liquidity imbalances and to develop an active secondary market for the trading of instruments in money market. The DFHI plays the role of a market maker in money market instruments.
STRUCTURE AND INSTITUTIONAL DEVELOPMENT	The Indian Money Market consists of two types of segments: an Organized segment and an unorganized segment. In the unorganized segment, interest rates are much higher than in the organized segment. Organized segment consists of RBI, SBI with its associate banks, Public Sector Banks, Private Sector Commercial banks, Foreign Banks, Regional Rural Banks, Non Scheduled Commercial Banks, apart from Non-Banking Financial Intermediaries such as LIC, GIC, etc The unorganized segment essentially consists of indigenous bankers, money lenders and other non-banking financial intermediaries such as Chit Funds. For these institutions there is no clear cut demarcation between short term and long term and between a genuine trade bill and mere financial accommodation. The share of the unorganized sector in providing trade finance has greatly diminished after Nationalization of Bank and expansion thereof into the length and breadth of the country.
MONEY MARKET INSTRUMENTS	
TREASURY BILLS (Dec 2009, June 2019)	Treasury Bills (TB) are an instrument issued by Govt. of India for financing its short – term liquidity requirements. Presently, Treasury bills are being issued by the Govt. of India for three tenors i. e. 91 days, 182 days and 364 days. The Reserve Bank of India issues treasury bills for and on behalf of the Govt. of India. The Govt. of India borrows funds to finance its fiscal deficits. Process Flow Chart of Treasury Bills: Treasury bills are zero coupon securities and pay no interest. It is generally issued at a discount price e. g. a days' treasury bills of Rs.100 (face value) may be issued at a discount of Rs.1.80. It means T – bills issued at Rs.98.20 and will be redeemed at Rs.100/-. Treasury Bills are very useful instruments to deploy short – term surpluses depending upon the availability and requirement. Even funds which are kept in current accounts can be deployed in treasury bills to maximize returns. Banks do not pay any interest on fixed deposits of less than 15 days, or balances maintained in current accounts, whereas treasury bills can be purchased for any number of days depending on the requirements. This helps in development of idle funds for very short periods as well.

	In short, it is a tool of monetary management in the economy. Types of Treasury Bills: (i) <u>14 – day T bill</u>: This Treasury bill matures in 14 days and its auction is on every Friday of every week. The notified amount for this auction is Rs.100 crores. (ii) <u>91 – day T bill</u>: This Treasury bill matures in 91 days and its auction is on every Friday of every week. The notified amount for this auction is Rs.100 crores. (iii) <u>182 – day T bill</u>: This Treasury bill matures in 182 days and its auction takes place on every alternative Wednesday (which is not a reporting week). The notified amount for this auction is Rs.100 crores. (iv) <u>364 – day T – bill</u>: This Treasury bill matures in 364 days and its auction takes place on every alternate Wednesday (which is a reporting week). The notified amount for this auction is Rs.500 crores. Benefits of T – Bills: (i) T – Bills are highly liquid. (ii) No tax deducted at source. (iii) No risk of default as its being issued by the Govt. of India. (iv) Better returns especially in the short – term. (v) Transparency. (vi) Low transaction cost. (vii) The yield on T – bills is assured. (viii) Simplified settlement. (ix) High degree of tradability and active secondary market facilitates meeting unplanned fund requirements.
CERTIFICATES OF DEPOSITS (DEC 2018, Dec 2011, June 2007)	Certificate of Deposits (CD) is a negotiable instrument and is issued in dematerialized form. It can only be issued by the Banks or financial institution for specified time period, The issue of certificate of deposits is governed under the guidelines of Reserve Bank of India. A bank can issue Certificate of Deposits for maturities from 7 days to one year whereas a financial institution can issue for maturities from 1 year to 3 years. Who shall issue CDs? (i) Any scheduled commercial bank excluding Regional Rural Bank (e. g. Gramin Bank) and Local Areas Banks can issue certificate of depot. (ii) Any other Financial Institutions as permitted by RBI. Minimum size of Issue and Denominations: The minimum amount of a CD should be of Rs.1 lakh and in the multiples thereof. It means a single subscriber should not be subscribed less than Rs.1 lakh for one unit of CD. CD can be issued to Individual, corporations, trust, funds, associations and non – resident Indian etc. Maturity Period: A Bank can issue CDs of maturity period not less than 7 days and not more than one year whereas a Financial Institution can issue CDs for a period not less than 1 year and not exceeding 3 years from the date of issue. Coupon/Discount rate: CDs may be issued at Interest (Coupon)/discount by the Banks/Financial Institution. The issuing banks/financial institution are free to determine the discount/coupon etc. Transferability: The CDs in physical forms are freely transferable by endorsement and delivery. Demat CDs can also be transferred, provided:

	(i) There is no lock – in period. (ii) There is no loan against the CDs. Format of CDs: The CDs should be issued only in the dematerialized form. However, the investors have the option to seek certificate in the physical form.
INTER – CORPORATE DEPOSITS (ICD) (June 2007)	It is an unsecured loan extended by one company to another subject to the compliance of the provisions of the Companies Act, 2013. This instrument allows corporate with surplus funds to lend to other corporate facing shortage of funds. Since the ICD is an unsecured instrument and therefore, it is available at the higher rate of interest as compared to the loan from the Bank. Accordingly, the cost of this instrument is very high. ICDs are very risky instruments for lender corporate as it is an unsecured loan. The ICDE market is an unorganized market with very less information available publicly about transaction details.
COMMERCIAL BILLS	Commercial Bills are a negotiable instrument and have the same features like Bills of Exchange. In other words, it is a negotiable instrument which is being accepted by buyer for obtaining goods or services on credit. The most common practice is that the seller who gets the accepted bills of exchange discounts it with the Bank or financial institution or a bill discounting house and collects the money (less the interest charged for the discounting). A commercial bill facility is a flexible credit facility which can give a company a short or long – term injection of cash to finance an individual export contract or general export growth. The volume of bills both inland and foreign, which is discounted/accounted, forms a substantial part of the total scheduled commercial bank credit.
COMMERCIAL PAPER (CP) (June 2012, June 2009)	- Commercial Paper (CP) is an unsecured money market instrument issued in the form of a promissory note. - In India, it was introduced in 1990s as a privately placed instrument. CP enables the borrowers to meet their short – term funding requirement for operations. - In the Global Market, it is very useful instrument with the fixed maturity period of not more than 270 days. - Commercial paper is a money – market security issued (sold) by large corporation houses to get money to meet short – term debt obligations and is only backed by an issuing bank or corporation's promise to pay the face amount on the maturity date.
FACTORING (JUNE 2015, DEC 2013)	Factoring means a financial transaction where an entity sells its receivables to a third party called a FACTOR at discounted prices. It is a method for the management of receivables. In this concept, the Banks/financial institutions sale their recoverable loans to third party (factor) at a discounted rate. The companies use this method for cleaning up their Balance Sheet. In factoring, a financial institution (factor) buys the accounts receivable of a company (Client) and pays up to 80% (rarely up to 90%) of the amount immediately on formation of agreement. Factoring company pays the remaining amount (Balance 20% - finance cost – opening cost) to the client when the customer pays the debt. Collection of debt from the customer is done either by the factor or the client depending upon the type of factoring. The account receivable in factoring can either be for a product or service. A factor provides the following services:

	(a) Credit management and covering the credit risk involved. (b) Provision of prepayment of funds against the debts it agreed to buy. (c) Arrangement for collection of debts. (d) Administration of sales outstanding. <u>PARTIES IN FACTORING</u> (i) The Seller, who has produced/sold the goods/services and raised the invoice. (ii) The Buyer, the consumer of goods/services and the party to pay. (iii) The Factor, the financial institution that advances the portion of funds to the seller. <u>FACTORING PROCESS</u> The seller interacts with the funding specialist/broker and explains the funding needs. The broker prepares a preliminary client profile form and submits to the appropriate funder for consideration. Once both parties agree that factoring is possible, the broker puts the seller in direct contact with the funder to ask/answer any additional questions and to negotiate a customized factoring agreement, which will meet the needs of all concerned. At this point, the seller may be asked to remit a fee with formal application to cover the legal research costs, which will be incurred during “due diligence”. This is the process by which the buyer’s creditworthiness is evaluated through background checks, using national database services. During the next several days, the funder completes the “due diligence” process on the seller, further verifies invoices and acknowledges any liens, UCC filings, judgments or other recorded encumbrances on the seller’s accounts receivables. The seller is advised of the facility and is asked to advise the buyers of the Factor by letter and submit an acknowledged copy of the same to the Factor for records. ➤ A detailed sanction letter is given to the seller and their acceptance on the same taken, with the required signatories. (Authorized signatories would be mentioned in the “Signing Authorities” section of the Proposal presented by seller). ➤ Sanction terms must contain the following: (a) The period for which the sanction is valid. (b) When the facility comes into effect. (c) Who the authorized signatories are for signing invoices for factoring. <u>ADVANTAGES FOR THE SELLER</u> (a) Seller gets funds immediately after the sale is affected and on presentation of accepted sales invoices and Promissory notes. (b) Major part of paper work and correspondence is taken care of by the factor. (c) Follow – up, for recovery of funds, is done mainly by the factor. (d) Interest rates are not as high as normal discounting. (e) Increased cash flow to meet payroll. (f) Immediate funding arrangements. (g) No additional debt is incurred on balance sheet.
BILLS REDISCOUNTING (Dec 2012)	Bill Rediscounting means the rediscounting of trade bills, which have already been purchased by/discounted with the bank by the customers. These trade bills arise out of supply of goods/services. Bill discounting is a money market instrument where the bank buys the bill (i. e. bill of exchange or Promissory Note) before it is due and credits the value of the bill after a discount charge to the customer’s account. Now, the bank which has discounted the bill may require getting it ‘rediscounted’ with some other bank to get the fund.

SUMMARY

Particulars	T Bill	Commercial Paper	Commercial Bill	Certificate of Deposit	Inter Corporate Deposits
Meaning	Treasury Bills are money market instruments issued by RBI to finance the short term requirements of the Government of India. These are discounted securities and thus are issued at a discount to face value. The return to the investor is the difference between the maturity value and issue price.	Commercial Paper (CP) is an unsecured money market instrument issued in the form of a promissory note. CP, as a privately placed instrument, was introduced in India in 1990 with a view to enable highly rated corporate borrowers to diversify their sources of short-term borrowings and to provide an additional instrument to investors.	Commercial Bills are a negotiable instrument and have the same features like Bills of Exchange. In other words, it is a negotiable instrument which is being accepted by buyer for obtaining goods or services on credit.	Certificate of Deposits (CDs) is a negotiable money market instrument and issued in dematerialised form or as Usance Promissory Note, against funds deposited at a bank or other eligible financial institution for a specified time period.	An ICD is an unsecured loan extended by one corporate to another. Existing mainly as a refuge for low rated corporates, this market allows corporates with surplus funds to lend to other corporates facing shortage of funds.
Minimum Amount	Rs. 25000 & in multiples thereof	Rs. 5 Lakhs or in multiples thereof	No such limit	Rs. 1 Lakh or in multiples thereof	No such limit
Maturity	14 days, 91 days, 182 days & 364 days	Not less than 7 days and not more than 1 year	Less than one year	Not less than 7 days and not more than 1 year	Less than one year
Eligible Issuers	RBI	Companies, PDs and financial institutions (FIs)	Any Person	Banks & Financial Institutions	Corporates
Other Points	The treasury bills are issued in the form of promissory note in physical form or by credit to Subsidiary General Ledger (SGL) account or Gilt account in dematerialized form.	Minimum Credit Rating shall be "A-2"	-	Banks have to maintain the appropriate reserve requirements, i.e., cash reserve ratio (CRR) and statutory liquidity ratio (SLR), on the issue price of the CDs.	Banks have to maintain the appropriate reserve requirements, i.e., cash reserve ratio (CRR) and statutory liquidity ratio (SLR), on the issue price of the CDs.

UNIT 7: MUTUAL FUNDS
SEBI(Mutual Funds) Regulations, 1996

INTRODUCTION	Mutual fund is a process of pooling resources from the investors and investing funds in securities. The process of pooling the resources together and issuing units to the investors and then investing funds in securities is known as the scheme of “Mutual Funds”. In other words, it works like a trust which pools the savings of investors and invests these in capital and money market instruments. Mutual funds offer good investment opportunities to the investors. Like all investments, they also carry certain risks.
ADVANTAGES OF MUTUAL FUNDS	• Professional Management: The funds of Asset Management Company (AMC) are managed by the experience and high caliber professionals who are backed by the dedicated research team. The research team analyses the performance & prospectus of the Companies for purpose of investments of funds. • Diversified Investment: The AMC diversifies the total funds into different sectors or industry for reducing the risk. In short, diversification of funds reduces the risk of investment. • Return Potential: Mutual funds provide higher returns as they invest in a diversified basket of selected securities. • Low Cost: If we compare this form of investment with the other forms, the mutual funds are less expensive. • Transparency: It provides regular information to the investors about the value of their investment. • Liquidity: The open ended mutual funds are very liquid and it can be easily encashed by the investors. • Tax Benefits: Many mutual funds are tax exempt under section 80C of the Income Tax Act. • Protection to the Interest of Investors: Being regulated by the SEBI, mutual funds have to comply with the strict rules and regulations designed to protect the interest of the Investors.
RISKS INVOLVED IN MUTUAL FUNDS (Dec 2007, Dec 2009)	Like all investments, Mutual Fund also carries certain risks. The risks involved in mutual fund are as follows:- (i) Excessive diversification of portfolio, losing focus on the securities of the key segments. (ii) Too much concentration on blue-chip securities which are high priced and which do not offer more than average return. (iii) Necessity to effect high turnover through liquidation of portfolio resulting in large payments of brokerage and commission. (iv) Poor planning of investment with minimum returns. (v) Unresearched forecast on income, profits and Government policies. (vi) Fund managers being unaccountable for poor results. (vii) Failure to identify clearly the risk of the scheme as distinct from risk of the market.

TYPES OF MUTUAL FUND	Types of Funds - By Investment Objective 
BASIC CLASSIFICATION OF MUTUAL FUNDS (MF)	OPEN – ENDED MUTUAL FUNDS: It is a mutual fund scheme where investors invest and redeem their investment throughout the year. It gives flexibility to an investor to purchase and redeem the units of mutual funds at any time at a fixed NAV during the life time of funds. Key features of such scheme are liquidity and its free entry and exit from the fund. It is a never ending fund and can be used it as systematic investment platform. The listing of open ended mutual fund is not required and the corpus of this fund is flexible and always varies. CLOSE – ENDED MUTUAL FUNDS: It is a fund which opens for limited period for subscription. The investors can invest directly in the fund at the time of initial offer. After initial offer, an investor can buy units of this type of mutual funds from the market like equity shares of any company. The listing of Close – ended mutual funds is mandatory on the recognized stock exchanges (i. e. BSE & NSE or others). In other words, a close – ended scheme has fixed corpus and stipulated maturity period ranging between 2 and 5 years.
MUTUAL FUND SCHEMES BASED ON INVESTMENT OBJECTIVE (December 2017)	Income Oriented Mutual Fund: These funds offer a fixed income to investors and it has lower risk as compared to growth funds. Under this scheme, the Asset Management Company invests funds income oriented schemes like Bonds, Debentures, Government Bonds & securities and commercial papers. ➤ Features: (i) These schemes are generally have lesser risk as compared to Growth schemes. (ii) These schemes give fixed income. Growth oriented Mutual Fund: These funds offer capital appreciation over a period. Under this scheme, the Asset Management Company invests funds in the equity shares which have significant growth potential. Despite good return under this mutual fund scheme, there is no assurance or guarantee of return. In other words, it is a scheme which has high risk and high return. ➤ Features: (i) High risk and High Return. (ii) No Guarantee or assurance for return. (iii) The objective of this fund to get High capital appreciation. Hybrid Mutual Funds/Balanced Mutual Funds: These funds have features of income oriented funds and growth oriented funds. Example: HDFC Prudence, an equity oriented hybrid fund under this scheme, the Asset Management Company invests the entries funds in types of securities: (i) Equity shares, and (ii) Bonds & Fixed income oriented instruments.

	High Growth Schemes: These funds primarily invest in high risk and high return volatile securities in the market and induce the investors with a high degree of capital appreciation. Capital Protection Oriented Scheme: It is a scheme which protects the capital invested in the mutual fund through suitable orientation of portfolio structure. Tax Saving Schemes: These schemes offer tax rebates to the investors under tax laws as prescribed from time to time. This is made possible because the Government offers tax incentive for investment in specified avenues. For example, Equity Linked Saving Schemes (ELSS) and pensions schemes. Real Estate Funds: These are close ended mutual funds which invest predominantly in real estate and properties. Off Shore Funds: Such funds invest in securities of foreign companies with RBI permission. Leveraged Funds: Such funds, also known as borrowed funds, increase the size and value of portfolio and offer benefits to members from out of the excess of gains over cost of borrowed funds. They tend to indulge in speculative trading and risky investments. Hedge Funds: They employ their funds for speculative trading, i.e. for buying shares whose prices are likely to rise and for selling shares whose prices are likely to fall. Funds of Funds: They invest only in units of other mutual funds. Such funds do not operate at present in India. Exchange Traded Funds: Exchange Trade Funds (ETFs) are a new variety of mutual funds that first introduced in 1993. ETFs are sometimes described as mere “tax efficient” than traditional equity mutual funds, since in recent years, some large ETFs have made smaller distribution of realized and taxable capital gains than most mutual funds. Money Market Mutual Funds: These funds invest in short- term debt securities in the money market like certificates of deposits, commercial papers, government treasury bills etc. Owing to their large size, the funds normally get a higher yield on such short term investments than an individual investor. Infrastructure Debt Fund: They invest primarily in the debt securities or securitized debt investment of infrastructure companies.
INVESTMENT STRATEGIES	• Income /Debt Fund: If a particular scheme has been made for the purpose to invest only in debt instruments like bonds & deposits, it is known as Income/Debt Fund. These are considered as <u>conservative funds</u> since the investor wants the regular income and cannot wait for more than short to medium term. • Equity Fund: If a particular scheme has been made for the purpose to invest only in equity shares, it is known as Equity Fund. This fund is considered as an <u>aggressive fund in nature</u> and the investors should have the long – term horizon for investment.

	• Balanced/Hybrid Funds: It is a mix of equity and debt fund and it can be further divided into Equity Oriented Fund and Debt Oriented Fund. These are the types of <u>moderate funds</u> which seek growth and stability but only taking the moderate risk. • Bottom – up Investing: This strategy considers only the fundamental factors of a company before considering the economic prospects. In this strategy a bottom – up investor neglects the broad macroeconomics analysis and focuses on a specific stock based on its individual qualities. • Top – down Investing: This is an investment strategy. In this strategy, the investor begins with analysis of domestic and global economy and considers the factors like GDP, Interest Rate, inflation and exchange rate. Subsequently, the investor identifies the most promising companies in the economy. In short, it is an investment strategy which first takes a view on the economy and then looks at the industry scenario to assess the potential performance of a company. • Sector Funds: Sector funds invest only in shares of companies belonging to a specific industry. These funds perform well so long as the industry or the sector is in the upswing, but the risk could be high, if the industry or the sector goes down. • Money Market Funds: Money market funds are regarded as high liquidity oriented as investors attach more value for safety and liquidity.
OVERSEAS INVESTMENT BY MUTUAL FUNDS (December 2018)	Mutual Funds Companies are permitted to make investment in: (a) ADRs/GDRs issued by Indian or foreign companies. (b) Equity shares of companies listed on overseas stock exchanges. (c) Initial (IPO) and follow on public offerings (FPO) for listing at overseas stock exchanges. (d) Foreign debt securities in the countries with fully convertible currencies. (e) Money market instruments rated not below investment grade. (f) Government securities where the countries are rated not below investment grade. (g) Derivatives traded on recognized stock exchanges overseas only for hedging and portfolio balancing with underlying as securities. Case Study on Transaction in excess of permissible limits SEBI v. Shriram Mutual Fund & Others Facts: A penalty of Rs.2 lakh was imposed by Adjudicating Officer (AO) on Shriram Mutual Fund (SME) as it has repeatedly exceeded the permissible limits of transactions through its associate broker. On an appeal by SME, SAT vide its final judgment and ordered to set aside AO's order inter – alia on the ground that the limit was not exceeded intentionally. SEBI filed an appeal under Section 15Z of the SEBI Act in the Hon'ble Supreme Court. Judgment of the Hon'ble Supreme Court: The Supreme Court set aside the judgment of SAT on the following grounds:- (a) Mensrea is not an essential ingredient for contravention of the provisions of a Civil Act. (b) Penalty is attracted as soon as contravention of the statutory obligation has been made, and therefore the intention of the parties committing such violation becomes immaterial. (c) Unless the language of the statute indicates the need to establish the element of Mensrea, it is generally sufficient to prove that a default in complying with the statute has occurred. (d) Once the contravention is established, the penalty has to follow and only the quantum of penalty is discretionary.

CALCULATION OF NAV	Mutual funds raise money by selling their shares to public and redeeming them at current net asset value. Net asset value is the value of the assets of each unit of the scheme. Thus if the NAV is more than the face value of, there is an appreciation for the investment. If the NAV is less than the face value, it indicates depreciation of the investment. Every mutual fund shall compute the NAV of each scheme by dividing the net asset of the scheme by the number of units of that scheme outstanding on the date of valuation and public the same at least in two daily newspapers at intervals not exceeding one week. However, the net asset value of any scheme for special target segment or any monthly scheme which are not mandatorily required to be listed in the stock exchange may publish the NAV at monthly or quarterly intervals as permitted by SEBI. $\text{Net Asset Value} = \frac{\text{Market Value} + \text{Current Assets} - \text{Current Liabilities}}{\text{No. of units Outstanding}}$
MUTUAL FUNDS COSTS (June 2017)	The mutual funds costs are of two types:- • Opening Expenses: It includes advisory fees, custodial fees, audit fees, Transfer agent fees, Trustees fees, Agent commission. • Sales Charges: It includes commissions to the agents and expenses for distribution and marketing.
ROLL OVER OF A SCHEME	A mutual fund company can roll over a close ended scheme on or before the redemption of the scheme after giving an option to investors to redeem their units at NAV based price. The roll over scheme may include a fresh extension of period or continue under the same terms of the original scheme with or without modifications.
SWITCH OVER ONE SCHEME TO ANOTHER	A mutual fund company may use its discretion to permit switching over of the investment in units from one to another of its schemes, to help the investor shift, from a high risk scheme to a low risk one or vice – versa.
ANNUALIZED RETURNS	Investors buy and sell mutual fund shares/units during a short period and make profits. Percentage of profits in such short periods cannot be a reliable measure. The proper method is to calculate returns on an annualized basis at the compounded average rate over a year.
ASSET MANAGEMENT COMPANY	Asset Management Company (AMC) manages the funds by investing in various securities as per the offer document. It acts as the investment manager under the supervision and directions of the trustee. In short, Asset Management Company means a company formed & registered under the Companies Act, 2013 and under previous Companies Acts and also registered with SEBI. Example: HDFC Asset Management Company Limited & Reliance Capital Assets Management Limited. The AMC must be registered with SEBI before collecting and investing the fund in the securities market. The AMC should be governed under the SEBI (Mutual Fund) Regulations, 1996. • AMC should be formed with the following objectives: (i) Raising money against units. (ii) Investing the funds in securities. (iii) Distribution of income to the shareholders.
SEBI (MUTUAL FUND) REGULATIONS, 1996	
CONSTITUTION AND MANAGEMENT OF	(i) A mutual fund shall be constituted in the form of a trust and the instrument shall be in the form of a deed duly registered under the Act.

MUTUAL FUNDS AND OPERATION OF TRUSTEES	(ii) The trust deed shall not contain any clause which has the effect of limiting or extinguishing the obligations and liabilities of the trusts.
ELIGIBILITY CRITERIA (REGULATION 7)	The criteria for registration of mutual funds include: (i) There should be sound track record and general reputation of the sponsor; [for the purpose of this clause "Sound Track Record" means the Sponsor should: (a) be carrying on the business in financial services for a period of not less than 5 years; and (b) the Networth is positive in all the immediately preceding 5 years; and (c) The Networth in the immediately preceding year is more than the capital contribution of the sponsor in AMC; and (d) the sponsor has profits after providing for depreciation, interest and tax in three out of immediately preceding five years, including the fifth year; And applicant is a fit and proper person] (ii) The fund should be in the form of the trust which must be approved by SEBI; (iii) The sponsor should contribute at least 40% to the net worth of the asset management company; (iv) The sponsor or any of the directors or principle officer of AMC: i) Should not be guilty of any fraud or ii) has not been convicted of an offence involving moral turpitude or iii) has not been found guilty of any economic offence; (v) The trustees must be appointed in accordance with the provisions of the Act; (vi) The asset management company must be appointed in accordance with the provisions of the Act; (vii) The custodians must be appointed in accordance with the provisions of the Act in order to keep custody of gold and gold related instruments or other assets of mutual fund; <u>CRITERIA FOR FIT & PROPER PERSON (REGULATION 7A)</u> For the purpose of determining whether an applicant or the mutual fund is a fit and proper person the Board may take into account the criteria specified in Schedule II of the Securities and Exchange Board of India (Intermediaries) Regulations, 2008.
NORMS FOR SHAREHOLDING & GOVERNANCE IN MUTUAL FUNDS (REGULATION 7B)	(1) No sponsor of a mutual fund, its associate or group company including the asset management company of the fund, through the schemes of the mutual fund or otherwise, individually or collectively, directly or indirectly, have – (a) 10% or more of the share-holding or voting rights in the asset management company or the trustee company of any other mutual fund; or (b) representation on the board of the asset management company or the trustee company of any other mutual fund. (2) Any shareholder holding 10% or more of the share-holding or voting rights in the asset management company or the trustee company of a mutual fund, shall not have, directly or indirectly, – (a) 10% or more of the share-holding or voting rights in the asset management company or the trustee company of any other mutual fund; or (b) representation on the board of the asset management company or the trustee

	company of any other mutual fund. (3) Any person not in conformity with the sub-regulations (1) and (2) of this regulation, as on the date of the coming into force of this regulation shall comply with sub-regulations (1) and (2) within a period of one year from the date of the coming into force of this regulation. Provided that in the event of a merger, acquisition, scheme of arrangement or any other arrangement involving the sponsors of the mutual funds, shareholders of the asset management companies or trustee companies, their associates or group companies which results in the incidental acquisition of shares, voting rights or representation on the board of the asset management companies or trustee companies, this regulation shall be complied with within a period of one year of coming into force of such an arrangement. (Inserted w.e.f. 06.12.2018)
ELIGIBILITY CRITERIA FOR APPOINTMENT OF AMC (REGULATION 21)	The Applicant has to fulfill the following: (i) In case the AMC is an existing AMC, it has a sound track record, general reputation and fairness in transactions; AMC is a Fit & Proper Person. (ii) The directors of AMC are persons having adequate professional experience in finance and financial services related field and ⇒ not found guilty of moral turpitude or ⇒ convicted of any economic offence or ⇒ violation of any securities laws; (iii) The Key Personnel of AMC: ⇒ have not been found guilty of moral turpitude or ⇒ Convicted of economic offence or ⇒ Violation of securities laws or ⇒ Worked for any AMC or MF or any intermediary during the period when its registration has been suspended or cancelled at any time by the Board; (iv) The BOD of such AMC has at least 50% directors, who are not associate of, or associated in any manner with, the sponsor or any of its subsidiary or the trustees; (v) The Chairman of AMC is not a trustee of mutual fund; (vi) The AMC has a Net worth of not less than 50 Crores; [Net worth means aggregate of paid up capital and free reserves of AMC after deducting therefrom Miscellaneous Expenditure not written off or Deferred revenue expenditure, Intangible Assets and Accumulated Losses] Provided that an AMC already granted approval under Old guidelines, shall within a period of 3 years from the date of notification of SEBI (MF) (Amendment) Regulations, 2014 increase its Net worth to 50 Crores; Provided further that an AMC eligible to launch only Infrastructure debt fund schemes, shall have a Net worth of not less than 10 Crores; Provided further that in cases where Board is satisfied that an AMC is taking steps to meet the Net worth requirement within the specified time, the AMC may be allowed to launch upto two new schemes per year;
TRUST DEED TO BE REGISTERED UNDER	A mutual fund shall be constituted in the form of a Trust and the instrument of trust shall be in the form of a Deed, Duly registered under the provisions of Indian Registration Act, 1908 executed by Sponsor in favor of the trustees named in such an

REGISTRATION ACT	instrument.
CONTENTS OF TRUST DEED (REGULATION 15)	(i) Minimum number of trustees must be mentioned in the trust deed (ii) The trust deed shall provide that it would be the duty of the trustees: ⇒ To act in the interest of the unit holders. ⇒ To provide or cause to provide information to unit holders and board ⇒ To take reasonable care to ensure that the funds under the schemes floated by and managed by the AMC are in accordance with Trust deed and Regulations. (iii) The trust deed shall provide that the auditor for the mutual fund shall be different from the Auditor of AMC; (iv) Broad Policies regarding allocation of payments to capital or income must be indicated in the trust deed. (v) The trust deed shall forbid the MF to make or guarantee loans or take up any activity not in contravention of Regulations (vi) Trusteeship fees, if any payable to trustees shall be provided in the Trust deed. (vii) The trust deed shall provide that no amendment in the trust deed shall be carried out without the prior approval of Board and Unit Holders is obtained; (viii) The removal of trustee in all cases would require the prior approval of the board; (ix) The trust deed shall specify the quorum for a meeting of the trustees; (x) The trust deed shall state that the minimum number of trustee shall be four.
RIGHTS AND OBLIGATIONS OF TRUSTEES (REGULATION 18) (Dec 2015)	(i) The trustees and the AMC shall with the prior approval of the SEBI enter into an Investment Management Agreement (IMA); (ii) The IMA shall contain such clauses mentioned in the Fourth Schedule and such other clauses as are necessary for the purpose of making investments; (iii) The trustee shall have a right to obtain from the AMC such information as is considered necessary by the trustees; (iv) The Trustees shall ensure before the launch of any scheme that the AMC has: i) Systems in place for its back office, dealing room and accounting; ii) appointed Auditors to audit its accounts; iii) appointed all KMP including Fund Managers for the schemes and submitted their bio data which shall contain education qualifications, past experience in the securities market with the trustees, within 15 days of their appointment; iv) appointed Compliance officer who shall be responsible for monitoring the compliance of the Act, Rules and Regulations, Notification, Guidelines, Instructions, etc issued by SEBI or CG and for Redressal of investors grievances; v) appointed Registrar and laid down parameters for their supervision; vi) prepared a compliance manual and designed internal control mechanisms including internal audit systems; vii) specified norms for empanelment of brokers and marketing agents; viii) obtained, wherever required, prior in principle approval for RSE where units are proposed to be listed. (v) The compliance officer has the duty to report any of the non – compliances to the Board; (vi) The trustees shall ensure that AMC has been diligent in empanelling the brokers and in monitoring the securities transactions with brokers and avoiding undue concentration of business with any broker; (vii) The Trustees shall ensure that AMC has not given any undue or unfair advantage to any associates or dealt with any of the associates of AMC in any manner detrimental to interest of unit holders; (viii) The trustee shall ensure that transactions entered into by AMC are in accordance

	with these regulations and scheme; (ix) Where the trustees have reason to believe that the conduct of business of mutual fund is not in accordance with these regulations and scheme they shall forthwith take such remedial steps as are necessary by them and shall immediately inform the Board of the violation and action taken by them; (x) Each trustee shall file the details of his transactions of dealings in securities with the mutual fund on a quarterly basis. (xi) The trustees shall be accountable for, and be the custodian of, the funds and property of respective schemes and shall hold the same for the benefit of the unit holders in accordance with these regulations and trust deed. (xii) The trustees shall be responsible for the calculation of any income due to be paid to the mutual fund and also of any income received in mutual fund for the holder of any scheme in accordance with these regulations and trust deed. (xiii) The trustees shall obtain the consent of the unit holders: a) whenever required to do so by Board in the interest of unit holders; or b) whenever required to do so on the requisition made by three fourth of the unit holders of any scheme; or c) when the majority of the trustees decide to wind up or prematurely redeem the units. (xiv) The trustees shall quarterly review all transactions carried out between mutual fund, AMC and its associates. (xv) The trustees shall quarterly review the networth of AMC and in case of any shortfall ensure that the AMC make up for the shortfall as per these regulations; (xvi) The trustees shall periodically review all service contracts such as custody arrangements, transfer agency of securities and satisfy itself that such contracts are executed in the interest of unit holders; (xvii) The trustee shall periodically review the investor complaints received and the Redressal of the same by AMC; (xviii) The trustees shall abide by the Code of Conduct;
APPOINTMENT OF CUSTODIAN (REGULATION 26)	(i) The mutual fund shall appoint a Custodian to carry out the custodial services for the schemes of the fund and sent intimation of the same to the board within 15 days of appointment of custodian; Provided that in case of a gold exchange traded fund scheme, the assets of the scheme being gold or gold related instruments may be kept in custody of a bank which is registered as a custodian with the Board. Provided further that in case of a real estate mutual fund scheme, the title deed of real estate assets held by it may be kept in the custody of a custodian registered with the Board. Provided also that mutual fund schemes investing in exchange traded commodity derivatives may appoint a custodian to have custody of the underlying goods in case of physical settlement of such contracts. (Inserted w.e.f 26.04.2019) (ii) No custodian in which:

	⇒ Sponsor or its associates hold 50% or more of voting rights of Share Capital of Custodian or ⇒ where 50% or more of the directors of custodian represent the interest of sponsor or its associates; ⇒ shall act as custodian for a mutual fund constituted by the same sponsor or any of its associates or subsidiary company; Provided that where the sponsor or its associates hold 50% or more of Voting rights of custodian, such custodian may act as custodian for a mutual fund constituted by the same sponsor or any of its associates or subsidiary company if: a) The sponsor has a Networth of at least 20,000 crore rupees at all point of time; b) 50% or more of directors of custodian are those who do not represent the interest of sponsor or its associates; c) the custodian and AMC of MF are not subsidiary of each other; d) No person is a director of both the custodian and AMC; and e) The custodian and AMC sign an undertaking that they will act independently of each other in their dealings with the scheme;
CODE OF CONDUCT OF MUTUAL FUNDS (FIFTH SCHEDULE)	(i) The schemes should not be organized, operated and managed in the interest of sponsors or the directors of AMC or special class of unit holders; (ii) It shall ensure the adequate dissemination of adequate, fair, accurate and timely information of all the stake holders; (iii) The excessive concentration of business with the broking firm should be avoided; (iv) The scheme – wise segregation of bank accounts and securities accounts must be ensured; (v) The investment should be made in accordance with the investment strategies stated on the offer documents; (vi) The high standards of integrity and fairness in all the dealings should be maintained by the trustees and AMCs; (vii) The AMCs shall not make any exaggerated statements; (viii) A half yearly report on the activity of the mutual funds shall be submitted to SEBI by the trustees.
ADVERTISEMENT CODE (June 2016, Dec 2015)	(i) Advertisement shall be accurate, true, fair, clear, complete, unambiguous and concise. (ii) Advertisement shall not contain statement which are false, misleading, biased or deceptive, based on assumptions and shall not contain any testimonials or any ranking based on any criteria. (iii) No celebrities shall form part of advertisement. (iv) No advertisement shall directly or indirectly discredit other advertisements or make unfair comparisons. (v) Advertisements shall be accompanied by a standard warning in legible fonts which states "Mutual fund investments are subject to market risks, read all schemes related document carefully." No addition or deletion of words shall be made to the standard warning. (vi) In audio visual media based advertisements, the standard warning in visual and accompanying voice over reiteration shall be audible in a clear and understandable manner. For example, in standard warning both the visual and the voice over reiteration containing 14 words running for at least 5 seconds may be considered as clear and understandable. (vii) Advertisement shall not be so designed as likely to be misunderstood or likely to be disguise the significance of any statement.

	(vii) Advertisements shall not carry any slogan that is exaggerated or unwarranted or slogan that is inconsistent with or unrelated to the nature and risk and return profile of the product. (ix) Advertisements shall contain information which is timely and consistent with the disclosures made in the Scheme Information Document, Statement of Additional Information and the Key Information Memorandum. (x) Advertisements shall not be so framed as to exploit the lack of experience or knowledge of the investors. Extensive use of technical or legal terminology or complex language and the inclusion of excessive details which may detract the investors should be avoided.
GENERAL DUE DILIGENCE AND SPECIFIC DUE DILIGENCE BY TRUSTEES (REGULATION 18)	The trustees shall exercise due diligence as under:- <u>GENERAL DUE DILIGENCE:</u> (i) The trustees shall be discerning in the appointment of the directors on SEBI of the asset management company. (ii) Trustees shall review the desirability of continuance of the asset management company if substantial irregularities are observed in any of the schemes and shall not allow the asset management company to float new schemes. (iii) The trustee shall ensure that the trust property is properly protected, held and administered by proper persons and by a proper number of such persons. (iv) The trustee shall ensure that all service providers are holding appropriate registrations from SEBI or concerned regulatory authority. (v) The trustees shall arrange for test checks of service contracts. (vi) Trustees shall immediately report to SEBI of any special developments in the mutual fund. <u>SPECIFIC DUE DILIGENCE:</u> The trustees shall: (i) Obtain internal audit report at regular intervals from independent auditors appointed by the trustees; (ii) Obtain compliance certificate at regular intervals from the asset management company; (iii) Hold meeting of trustee more frequently; (iv) Consider the reports of the independent auditor and compliance reports of asset management company at the meetings of trustees for appropriate action; (v) Maintain records of the decisions of the trustees at their meetings and of the minutes of the meetings; (vi) Prescribe and adhere to a code of ethics by the trustees, asset management company and its personnel; (vii) Communicate in writing to the asset management company of the deficiencies and checking on the rectification of deficiencies.
CAPITAL PROTECTION ORIENTED SCHEMES	Regulation 38A of the Regulations provides that a capital protection oriented scheme may be launched, subject to the following:- (i) The units of the scheme are rated by a registered credit rating agency from the viewpoint of the ability of its portfolio structure to attain protection of the capital invested therein; (ii) The scheme is close ended; and (iii) There is compliance with such other requirements as may be specified by SEBI.
RESTRICTION ON INVESTMENTS BY MUTUAL FUNDS (SEVENTH)	(i) The schemes shall not invest more than 10% of its NAV in debt instruments issued by a single issuer which are rated not below investment grade by a CRA; However, such limit can be increased to 12% of its NAV with prior approval of Board of Trustee and Board of Directors of AMC;

SCHEDULE OF REGULATIONS)

(ii) A mutual fund scheme shall not invest more than 10% of its NAV in unrated debt instruments issued by a single issuer and total investments shall not exceed 25% of NAV of scheme. All such investments made shall be with prior approval of Board of Trustees and Board of Directors of AMC.

(iii) Mutual fund shall not own more than 10% of company's paid – up capital carrying rights;

(iv) The transfer of investments from one scheme to another shall be done only at the prevailing market price & the securities so transferred shall be in conformity with the investment objective of the scheme to which such transfer has been made;

(v) The aggregate investments made by all schemes under the same management shall not exceed 5% of the NAV of the mutual fund; (this shall not apply to funds of funds scheme)

(vi) The buy & purchase by all the mutual funds shall be made on the basis of the deliveries;

(vii) All securities shall be purchase or transferred in the name of the mutual fund scheme;

(viii) No mutual fund shall make any investment in:

- (a) any unlisted security of an Associate or Group Company of the Sponsor;
- (b) any security issued by way of private placement by an associate or group company of the sponsor;
- (c) the listed securities of group companies of the sponsor which is in excess of 25 per cent of the net assets;

(ix) No mutual fund shall make any investment in the funds of fund scheme;

(x) No mutual fund shall invest more than 10% of its NAV in the equity shares or equity related instruments of any company;

(xi) A mutual fund scheme shall not invest more than 5% of its NAV in the unlisted equity shares or equity related instruments in case of open ended scheme and 10% of its NAV in case of close ended scheme;

(xii) A fund of funds scheme shall be subject to the following investment restrictions:

- (a) A fund of funds scheme shall not invest in any other fund of funds scheme;
- (b) A fund of funds scheme shall not invest its assets other than in schemes of mutual funds, except to the extent of funds required for meeting the liquidity requirements for the purpose of repurchases or redemptions, as disclosed in the offer document of fund of funds scheme;

(xiii) A mutual fund may invest in the units of REITs and InvITs subject to the following:

- (a) No mutual fund under all its schemes shall own more than 10% of units issued by a single issuer of REIT and InvIT; and

(xiv) A mutual fund scheme may invest in exchange traded commodity derivatives subject to such investment restrictions as may be specified by the Board from time to time. (Inserted w.e.f 26.04.2019)

(b) A mutual fund scheme shall not invest –

- i. more than 10% of its NAV in the units of REIT and InvIT; and
- ii. more than 5% of its NAV in the units of REIT and InvIT issued by a single issuer.

	Provided that the limits mentioned in sub-clauses (i) and (ii) above shall not be applicable for investments in case of index fund or sector or industry specific scheme pertaining to REIT and InvIT. <u>MUTUAL FUNDS ARE PERMITTED TO MAKE INVESTMENT IN:</u> (i) ADRs and GDRs; (ii) Equity of overseas company; (iii) Initial or follow on public investments; (iv) Foreign debt securities; (v) Money market instruments; (vi) Repos in the form of investment; (vii) Government securities; (viii) Derivative; (ix) Short – term deposits; (x) Units issued by overseas mutual funds.
INFRASTRUCTURE DEBT FUND SCHEMES (June 2019, June 2015, Dec 2013)	“Infrastructure debt fund scheme” means a mutual fund scheme that invests primarily (minimum 90% of scheme assets) in the: ⇒ Debt securities or ⇒ Securitized Debt Instrument of infrastructure companies or ⇒ Infrastructure capital companies or ⇒ Infrastructure projects or ⇒ Special purpose vehicles Which are created for the purpose of facilitating or promoting investment in infrastructure and other permissible assets in accordance with these regulations or bank loans in respect of completed and revenue generating projects of infrastructure companies or projects or special purpose vehicles. “Strategic Investor” means; (i) an Infrastructure Finance Company registered with RBI as NBFC. (ii) a Scheduled Commercial Bank; (iii) International Multilateral Financial Institution. <u>Eligibility criteria for launching infrastructure debt fund scheme:</u> (i) An existing mutual fund may launch an infrastructure debt fund schemes if it has an adequate number of key personnel having adequate experience in infrastructure sector. (ii) A certificate of registration may be granted to an applicant proposing to launch only Infrastructure debt fund scheme if the sponsor or Parent Company of the sponsor: (a) has been carrying on activities or business in infrastructure financing sector for a period of not less than 5 years; (b) it must be a fit and proper person [Specified in Schedule II of SEBI (intermediaries) Regulations 2008] (Parent Company of Sponsor shall mean a company which holds at least 75% of paid up equity share capital of sponsor.) <u>Conditions for Infrastructure debt fund schemes:</u> (i) An infrastructure debt fund scheme shall be launched either as close ended scheme maturing after more than 5 years or interval scheme with lock in of 5 years and Specified transaction period not more than 45 days as may be specified in the scheme information document. The tenure of the scheme would be allowed to be extended upto 2 years beyond the original tenure with the consent of 2/3rd of its investors by value. (ii) Units of Infrastructure debt fund schemes shall be listed on a RSE, provided such

	units shall be listed only after being fully paid up. (iii) An infrastructure debt fund scheme shall have minimum five investors and no single investor shall hold more than 50% of net assets of the scheme. (iv) No infrastructure debt fund scheme shall accept any investment from any investor which is less than Rs. 1 crore. (v) The minimum size of the unit shall be Rs. 10 Lakhs. (vi) Each scheme launched as infrastructure debt fund scheme shall have firm commitment from the Strategic investors for contribution of an amount of at least Rs. 25 Crores before the allotment of units of the scheme are marketed to other potential investors. (vii) Mutual Funds may disclose indicative portfolio of infrastructure debt fund scheme to its potential investors disclosing the type of assets the mutual fund will be investing (viii) No Infrastructure Debt Fund schemes shall invest in – (i) Any unlisted security of the sponsor or its associate or group company; (ii) Any listed security issued by way of preferential allotment by the sponsor or its associate or group company; (iii) Any listed security of the sponsor or its associate or group company or bank loan in respect of completed and revenue generating projects of infrastructure companies or SPVs, in excess of twenty five per cent of the net assets of the scheme, subject to approval of trustees and full disclosures to investors for investments made within the aforesaid limits. (iv) Any asset or securities owned by the sponsor or Asset Management Company or its associates in excess of 20% of the net assets of the scheme not below investment grade, subject to approval of trustees and full disclosures to investors for investments made within the aforesaid limits.
GOLD EXCHANGE TRADED FUNDS (GETF):	In India, Mutual Fund Schemes based on Gold or Gold related instruments were introduced in 2006. Gold Exchange Traded Fund Schemes are permitted to invest primarily in: (a) Gold; (b) Gold related instruments. Gold related instrument means any instrument having gold as underlying assets as specified by the SEBI. The Net Asset Value of this mutual fund is based on the domestic price of Gold or its related instruments. Example: SBI Gold ETF, UTI Gold ETF, Kotak Gold ETF & Reliance Gold ETF ➤ <u>Features:</u> (i) Cheapest form of pure physical gold with no premium. (ii) No issues wastage like physical gold in the form of Jewellery. (iii) No tax on it like VAT & Wealth Tax. (iv) No Storage or insurance cost.
REAL ESTATE MUTUAL FUND SCHEME (Dec 2009, June 2017))	Real estate mutual fund scheme means a mutual fund scheme that invests directly or indirectly in real estate assets or other permissible assets. Under this scheme, the Asset Management Company raises funds from individual investors for the purpose to invest in real estate assets. FEATURES: (i) The existing mutual funds are eligible to launch such schemes;

	(ii) New sponsors seeking to set up new mutual funds shall be carrying on the business of real estate for at least 5 years; (iii) It shall always be a close – ended scheme; (iv) NAV of the scheme shall be declared daily; (v) At least 35% of the net assets of the scheme shall be invested directly in the real estates; (vi) Each asset shall be valued by at least two valuer's who are accredited by a CRA; (vii) No mutual funds shall transfer real estate assets amongst its schemes; (viii) Such schemes shall not undertake any lending or housing finance activities; (ix) Accounting and valuation norms pertaining to REMF schemes have also been specified.
MONEY MARKET MUTUAL FUNDS (MMMFs) (Dec 2010, Dec 2007)	Meaning: MMMFs means funds those are invested in short term debt securities in the money market like: Certificate of deposits, Commercial Papers, Govt T-Bills. They are normally in Large Quantity. Significance: As MMMFs are in Large Size, hence they get a higher yield on such short term instruments in comparison to individual investors. These schemes are ideal for corporate and individual investors as a means to park their surplus funds for short periods. Features: MMMFs are exclusively governed by SEBI(MF) Regulations, 1996. Return in the schemes of such funds may fluctuate, depending upon the interest rate prevailing in the market.

UNIT 8: ALTERNATIVE INVESTMENT FUND
[SEBI (Alternative Investment Funds) Regulations, 2012]

INTRODUCTION	The Securities & Exchange Board of India (SEBI) has notified the SEBI (Alternative Investment Funds) Regulations, 2012 in place of SEBI (Venture Capital Funds) Regulations, 1996. These regulations provide that an entity, seeking to pool and manage such private pool of capital for investing in securities or acting as an AIF, should be registered with the SEBI under these regulations. The AIF Regulations aim to regulate funds involved in the pooling or raising of private capital from institutional investors or high net worth investors with a view to invest such funds in accordance with a defined investment policy for benefit of the investors and the manager of such fund, irrespective of their legal domicile.
EXISTING VCFs	- Existing VCFs will be permitted to continue and shall be governed by the VCF Regulations till such fund or scheme managed by the fund is wound up. - VCFs will not be permitted to raise any fresh funds after notification of these regulations, as aforesaid, except for commitments already made by investors as on the date of the notification. - These VCFs may seek re-registration under AIF Regulations, subject to approval of two-thirds of their investors by value. Existing funds (falling within the definition of an AIF) not registered with SEBI may continue to operate for 6 months from the date of commencement of the AIF Regulations or if it has already made an application for registration under these regulations within those 6 months then till the disposal of its application (extendable up to 12 months in special cases with the permission of SEBI). - These funds will not be allowed to float any new scheme without registration under the AIF Regulations. - Schemes floated by such funds before coming into force of AIF Regulations, shall only be allowed to continue till maturity. Further existing funds that are currently not registered with SEBI but wish to seek registration under the AIF Regulations may apply to SEBI for exemption from the strict compliance with the AIF Regulations if they are not able to comply with all provisions of these regulations.
IMPORTANT DEFINITIONS	Infrastructure Funds: These funds will primarily invest in unlisted securities or partnership interest or listed debt or securitize debt instruments of investee companies or special purpose vehicles engaged in or formed for, the purpose of operating or holding infrastructure projects. social venture means a trust, society or company or venture capital undertaking or limited liability partnership formed with the purpose of promoting social welfare or solving social problems or providing social benefits and includes,- (i) public charitable trusts registered with Charity Commissioner; (ii) societies registered for charitable purposes or for promotion of science, literature, or fine arts; (iii) company registered under Section 25 of the Companies Act, 1956; (iv) micro finance institutions Social Venture Funds: These Funds will invest primarily in securities or units of social ventures and which satisfy social performance norms laid down by the fund and whose investors may agree to receive restricted or muted returns. venture capital fund means an Alternative Investment Fund which invests primarily in unlisted securities of start-ups, emerging or early-stage venture capital undertakings mainly involved in new products, new services, technology or intellectual property right based activities or a new business model

	and shall include an angel fund as defined under Chapter III-A. Venture Capital Undertaking means a domestic company – (i) Which is not listed on a recognized stock exchange in India at the time of making investment; and (ii) Which is engaged in the business for providing services, production or manufacture of articles or things and does not include following activities or sectors:- (a) Non – banking financial companies; (b) Gold financing; (c) Activities not permitted under industrial policy of Government of India; (d) Any other activity which may be specified by SEBI in consultation with Government of India from time to time. (December 2018)
ALTERNATIVE INVESTMENT FUND (AIF) (Dec 2015, June 2013)	An alternative investment is an investment in an asset other than traditional stocks and bonds. It is an alternative scheme of investment in tangible assets like precious metals, art, antiques, coins, or stamps and some financial assets such as commodities, private equity, distressed securities, hedge funds, carbon credits etc. As per the SEBI (Alternate Investment Funds) Regulations, 2012: AIF means any fund established in India in the form of a trust, company, limited liability partnership or a body corporate which: (i) Is a privately pooled investment vehicle that collects funds from investors, whether Indian or foreign, for investing it in a defined investment policy for the benefit of investors; and (ii) Is not covered under the SEBI (Mutual Funds) Regulations, 1996, SEBI (Collective Investment Schemes) Regulations, 1999 or any other regulations of SEBI, which aims to regulate fund management activities. Excluded from AIF: (i) Family Trusts; (ii) ESOP Trusts; (iii) Employee Welfare Trusts; (iv) Holding Companies within the meaning of the Companies Act, 2013; (v) Other Special Purpose Vehicles not established by fund managers, including securitization trusts, regulated under a specific regulatory framework; (vi) Funds managed by registered securitization company or reconstruction company; and (vii) Any such pool of funds which is directly regulated by any other Indian regulator.
STATUTORY PROVISION FOR MAKING AIF	Registration of AIF: ✓ All AIFs are required to be mandatorily registered under any one of the above mentioned categories as defined by SEBI. ✓ AIF may launch multiple schemes without separate registration for each scheme subject to filing of Information Memorandum with SEBI. ✓ The Certificate of registration, once granted, shall be valid till the concerned AIF is wound up. Change in category of the Alternative Investment Fund SEBI has issued guidelines for alternative investment funds (AIFs) to change their registration categories based on risk exposure. These guidelines describe the rules and procedure regarding changes from one category of AIF registration to another. Regulation 7(2) of AIF Regulations specified that an Alternative Investment Fund which has been granted registration under a particular category cannot change its category subsequent to registration, except with the approval of SEBI. • Only AIFs that have not made any investments under their existing category would be allowed to apply for changing their classification. • Any AIF proposing to change its category is required to make an application to the SEBI for the same along with the application fees of Rs. 1 lakh. Additionally, they need to

	intimate the rationale for the proposed change. • In case the AIF has raised funds prior to the application for change in category, the AIF would be required to inform all its investors providing them the option to withdraw their funds garnered without any penalties. Any fees collected from investors seeking to withdraw commitments/funds shall be returned to them. Partial withdrawal may be allowed subject to compliance with the minimum investment amount required under the AIF Regulations. • The AIF would not make any investments other than in liquid funds/banks deposits until approval for the change in category is granted by the SEBI. • On approval of the request from SEBI, the AIF shall send a copy of the revised pleasant memorandum and other relevant information to all its investors. Investment Strategy: All AIFs shall state: ⇒ Investment strategy, ⇒ Investment purpose and ⇒ Its investment methodology in its placement memorandum to the investors. Placement Memorandum: - AIF can raise funds through private placement by issue of information memorandum or placement memorandum, by whatever name called. - Such information or placement memorandum must contain all material information about the AIF and the manager, background of key investment team of the Manager, targeted investors, fees and all other expenses proposed to be charged, tenure of AIF or Scheme, Investment Strategy, Risk Management Tools, Key Service providers, Terms & Conditions of winding up such other information as may be necessary for the investor to take an informed decision on whether to invest in the AIF. Listing: - Units of close ended AIF may be listed on stock exchange subject to a minimum tradable lot of 1 crore rupees. - Listing of AIF units shall be permitted only after final close of the fund or scheme.																
CATEGORIES AND KEY FEATURE OF AIF: (June 2019, June 2018; Dec 2013)	<table><tr><th></th><th>CATEGORY I</th><th>CATEGORY II</th><th>CATEGORY III</th></tr><tr><td>Meaning</td><td>Funds that invest in start – up or early stage ventures or social ventures or Small Medium Enterprises or infrastructure or other sectors which the government or regulators consider as socially or economically desirable which include VCF, SME Funds and such other AIFs as specified, in regulations.</td><td>Funds that do not fall in Categories I and III of AIF and those that do not undertake leverage or borrowing other than to meet the permitted day to day operational requirement including Private Equity Funds or Debt Funds. Category II AIF can invest in Units of Category I & II AIF; but cannot invest in other Funds of Funds.</td><td>Funds that employ diverse or complex trading strategies and may employ leverage including through investment in listed or unlisted derivatives, for e. g. Hedge Funds. Category III can invest in units of Category I & II. But cannot invest in other Funds of Funds.</td></tr><tr><td>Tenure</td><td colspan="2">Minimum of 3 years</td><td>No minimum Tenure</td></tr><tr><td>Close/Open Ended Fund</td><td colspan="2">Close Ended Funds</td><td>Open Ended Funds</td></tr></table>		CATEGORY I	CATEGORY II	CATEGORY III	Meaning	Funds that invest in start – up or early stage ventures or social ventures or Small Medium Enterprises or infrastructure or other sectors which the government or regulators consider as socially or economically desirable which include VCF, SME Funds and such other AIFs as specified, in regulations.	Funds that do not fall in Categories I and III of AIF and those that do not undertake leverage or borrowing other than to meet the permitted day to day operational requirement including Private Equity Funds or Debt Funds. Category II AIF can invest in Units of Category I & II AIF; but cannot invest in other Funds of Funds.	Funds that employ diverse or complex trading strategies and may employ leverage including through investment in listed or unlisted derivatives, for e. g. Hedge Funds. Category III can invest in units of Category I & II. But cannot invest in other Funds of Funds.	Tenure	Minimum of 3 years		No minimum Tenure	Close/Open Ended Fund	Close Ended Funds		Open Ended Funds
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	Extension	The tenure may be extended for a further period of 2 years only with the approval by 66.6% of the unit holders by value.		The tenure may be extended for a further period of 2 years in case of close – ended hand subject to approval from investors.
	Leverage/ Hedging	- Not borrow/leverage except for temporary funding requirements, which shouldn't exceed 30 days. - The borrowing cannot be on more than four occasions in a year and cannot exceed 10% of corpus.	- Shall not borrow/leverage except for temporary funding requirements, which shall not exceed 30 days. - The borrowing cannot be on more than four occasions in a year and cannot exceed 10% of corpus. - Funds may engage in hedging subject to guidelines.	May leverage or borrow (Subject to consent from investors and maximum limit specified by SEBI)
	Investment in one investor company	Shall not invest more than 25% of its Investable funds in one investee company;		Maximum 10% of the Investable funds in one investee company
	Tax “Pass Through”	Category I of AIFs will be considered as venture capital funds/companies for the purpose of Section 10 (23FB) of the Income Tax Act, 1961	- The income from Categories II & III funds will not be exempt under section 10 (23FB) of the Income Tax Act, 1961 - Taxation of such hands would depend on the legal status of the fund i. e. company limited liability partnership or trust.	
	Valuation	- AIF must disclose the valuation procedure and the methodology for valuing assets. - Valuation should be carried out by independent valuers once in every 6 months. This period can be extended to one year with the approval of 75% of the investors by value.		- AIF must disclose the valuation procedure and the methodology for valuing assets. - AIF to ensure that calculation of net asset value is independent from the fund management function of the AIF; NAV to be disclosed to investors as per the regulations.
	Reporting	Within 180 days from the end of the year an annual report is required to be presented to the		Within 180 days from the end of the year an annual report is required to be presented to the

	investor.		investors. • Within 60 days from the end of the quarter, AIF is also required to provide a quarterly report to the investors.
INVESTMENT IN AIF	Investment in all categories of AIFs shall be subject to the following conditions:- (i) The AIF may raise funds from any investor whether Indian, foreign or non – resident Indians by way of issue of units; (ii) Each scheme of the AIF shall have corpus of atleast 20 crore rupees; (iii) AIF shall not accept from an investor investment of value less than 1 crore rupees; However, in case of investors who are employees of the AIF or employees or directors of the Manager, the minimum value of investment shall be 25 lakh rupees; (iv) The Manager or Sponsor shall have a continuing interest in the AIF of not less than two and half percent of the corpus or 5 crore rupees, whichever is lower, in the form of investment in the AIF and such interest shall not be through the waiver of management fees. However, for Category III of AIF, the continuing interest shall be not less than five percent of the corpus or 10 crore rupees, whichever is lower; (v) The Manager or Sponsor shall disclose their investment in the AIF to its investors; (vi) No scheme of the AIF shall have more than 1000 investors; (vii) The fund shall not solicit or collect funds except by way of private placement.		
ANGEL FUNDS (Regulation 19A)	An angel investor or angel (also known as a business angel, informal investor, private investor) is: ➤ A wealthy individual ➤ who provides capital ➤ for a business start – up, ➤ usually in exchange for convertible debt or ownership equity. ➤ Angel investors create a fund for investing his capital for start – ups business, such fund is known as Angel Fund. It is a sub – category of Alternate Investment Funds. Investment IN Angel Funds: 1) Angel funds shall only raise funds by way of issue of units to angel investors; 2) Angel funds shall only raise funds by way of issue of units to angel investors. An angel fund shall have a corpus of at least 5 crore rupees. 3) Angel funds shall accept, up to a maximum period of Five years, an investment of not less than twenty – five lakh rupees from an angel investor. Investment BY Angel Funds: (1) Angel funds shall invest in venture capital undertakings, which: (a) complies with the criteria regarding the age of the venture capital undertaking/startup issued by the Department of Industrial Policy and Promotion under the Ministry of Commerce and Industry, Government of India vide notification no. G.S.R. 180(E) dated February 17, 2016 or such other policy made in this regard which may be in force; (b) Have a turnover of less than 25 crores rupees; (c) Are not promoted or sponsored by or related to an industrial group whose group turnover exceeds 300 crores rupees; and Explanation I: For the purpose of this clause, “industrial group” shall include a group of body corporate with the same promoter(s)/promoter group, a parent company and its subsidiaries, a group of body corporate in which the same person/group of persons exercise control, and a group of body corporate comprised of associates/subsidiaries/holding companies.		

	<u>Explanation II:</u> For the purpose of this clause, “group turnover” shall mean combined total revenue of the industrial group. (d) Are not companies with family connection with any of the angel investors who are investing in the company. (2) Investment by an angel fund in any venture capital undertaking shall not be less than 25 lakh rupees and shall not exceed five crores rupees. (3) Investment by an angel fund in the venture capital undertaking shall be lock – in for a period of 1 year. (4) Angel funds shall not invest in associates. (5) Angel funds shall not invest more than 25% of the total investments under all its schemes in one venture capital undertaking: PROVIDED that the compliance to this sub – regulation shall be ensured by the Angel Fund at the end of its tenure. (6) An angel fund may also invest in the securities of companies incorporated outside India subject to such conditions or guidelines that may be stipulated or issued by the Reserve Bank of India and the Board from time to time. Schemes: (1) The angel fund may launch schemes subject to filing of a scheme memorandum at least ten working days prior to launch of the scheme with the Board: Provided that payment of scheme fees shall not apply to schemes launched by angel funds. (2) Such scheme memorandum shall contain all material information about the investments proposed under such scheme. (3) The Board may communicate its comments, if any, to the applicant prior to launch of the Scheme and the applicant shall incorporate the comments in the scheme memorandum prior to launch of the scheme. (4) No scheme of the angel fund shall have more than 200 angel investors. <u>Provided that the provisions of the Companies Act, 2013 shall apply to the Angel Fund, if it is formed as a company.</u> Prohibition of Listing: Units of angel funds shall not be listed on any recognised stock exchange;
GENERAL OBLIGATIONS OF AIF	(i) All AIF shall review policies and procedures and their implementation, on a regular basis or as a result of business development, to ensure their continued appropriateness. (ii) The Sponsor or Manager of AIF shall appoint a Custodian registered with SEBI for safekeeping of securities if the corpus of AIF is more than 500 Crores. However, Sponsor or Manager of AIF Category III shall appoint such custodian irrespective of size of corpus of AIF. (iii) All AIF shall inform SEBI in case of any change in the Sponsor, Manager or any other material change from information provided by AIF at the time of application for registration. (iv) In case of change in Control of AIF, Sponsor or Manager, Prior approval from SEBI shall be taken by AIF. (v) The books of account of AIF shall be audited annual by a Qualified Auditor. (vi) Investment by Category I and Category II Alternative Investment Funds in the shares of entities listed on institutional trading platform after the commencement of Securities and Exchange Board of India (Issue of Capital and Disclosure Requirements) (Fourth Amendment) Regulations, 2015 shall be deemed to be investment in ‘unlisted securities’ for the purpose of these regulations.

MAINTENANCE OF RECORDS	The Manager or Sponsor shall be required to maintain the following records describing: (a) The Assets under Fund; (b) Valuation Policies and Practices; (c) Investment Strategies; (d) Particulars of investors and their contribution; (e) Rationale for investments made The records shall be maintained for a period of 5 years after winding up of the fund.
WINDING UP	(1) An AIF set up as a trust shall be wound up: a. When the tenure of AIF or all scheme launched by AIF as mentioned in placement memorandum is over; or b. If it is the opinion of trustees that the AIF be wound up in the interest of investors in the units; or c. If SEBI so directs in the interest of investors; (2) An AIF set up as a LLP shall be wound up in accordance with LLP Act, 2008: a. When the tenure of AIF or all scheme launched by AIF as mentioned in placement memorandum is over; or b. If 75% of investors by Value of their investment in AIF pass a resolution at a meeting of unit holders that the AIF be wound up; or c. If SEBI so directs in the interest of investors; (3) An AIF set up as a company shall be wound up in accordance with Companies Act, 2013. (4) An AIF set up as a body corporate shall be wound up in accordance with the provisions of statute under which it is constituted. (5) The Trustee or BOD or Designated partners of AIF shall intimate SEBI and investors of the circumstances leading to winding up of AIF (6) On and from the date of intimation, no further investments shall be made by AIF; (7) Within 1 years from date of intimation, the assets shall be liquidated and the proceeds accruing to the investors of AIF shall be distributed to them after satisfying all liabilities; (8) Upon winding up of AIF, the certificate of registration shall be surrendered to SEBI.
OVERSEAS INVESTMENT BY AIF	As per RBI circular, (i) AIF may invest in equity and equity linked instruments only of offshore venture capital undertakings, subject to overall limit of 500 Million USD. (ii) AIF desirous of making investments in offshore venture capital undertakings shall submit their proposal for investment to SEBI for approval. It is clarified that no separate permission from RBI is necessary in this regard. (iii) For the purpose of such investment, it is clarified that "Offshore venture capital undertakings" means a foreign company whose shares are not listed on any of recognize stock exchange in India or abroad. (iv) Such investments shall not exceed 25% of investible funds of scheme of AIF; (v) The Allocation of Investment limits would be done on first come first serve basis, depending on the availability in the overall limit of USD 500 Million. (vi) AIF shall have a time limit of 6 months from the date of approval from SEBI for making allocated investments in offshore venture capital undertakings. In case the applicant does not utilize the limits allocated within the stipulated period, SEBI may allocate such unutilized limit to other applicants. (vii) AIF shall not invest in Joint Venture/ Wholly owned Subsidiary while making overseas investments. (viii) AIF shall adhere to FEMA regulations and other guidelines of RBI from time to time including FDI regulations.

UNIT 9: COLLECTIVE INVESTMENT SCHEMES
SEBI (Collective Investment Schemes) Regulations, 1999

BACKGROUND	A collective investment scheme is a trust based scheme that comprises a pool of assets that is managed by a collective investment scheme manager and is governed by the Collective Investment Schemes Regulations given by SEBI. The sums of money that are exchanged on the Stock Exchange and in the money markets make them too pricy for most people. With a CIS, the money or funds form a group of investors are pooled or collected together to form a CIS portfolio.
COLLECTIVE INVESTMENTS SCHEME (June 2007, June 2011)	Any scheme or arrangement made or offered by any company under which the contributions, or payments made by the investors, are pooled and utilized with a view to receive profits, income, produce or property, and is managed on behalf of the investors is a CIS. Investors do not have day to day control over the management and operation of such scheme or arrangement. Section 11AA of the SEBI Act, 1992 defines it as any Scheme or Arrangement made or offered by any Company under which: (a) The contributions, or payments made by the investors, by whatever name called, are pooled and utilized solely for the purposes of the scheme or arrangement; (b) The contributions or payments are made to such scheme or arrangement by the investors with a view to receive profits, income, produce or property, whether movable or immovable from such scheme or arrangement; (c) The property, contribution or investment forming part of scheme or arrangement, whether identifiable or not, is managed on behalf of the investors; and (d) The investors do not have day to day control over the management and operation of the scheme or arrangement. The Securities Laws (Amendment) Act, 2014 defines it “Any pooling of funds under any scheme or arrangement, which is not registered with SEBI, involving a corpus amount of Rs.100 crore or more shall be deemed to be a collective investment scheme”. In short, A Collective Investment Scheme (CIS), as its name suggests, is an investment scheme wherein several individuals come together to pool their money for investing in a particular asset(s) and for sharing the returns arising from that investment as per the agreement reached between them prior to pooling in the money. The CIS, however, does not include any Scheme or Arrangement: (June 2019) (i) Made or offered by a co – operative society, (ii) Under which deposits are accepted by non – banking financial companies, (iii) Being a contract of insurance, (iv) Providing for any Scheme, Pension Scheme or the Insurance Scheme framed under the Employees’ Provident Funds and Miscellaneous Provisions Act, 1952, (v) Under which deposits are accepted under section 74 of the Companies Act, 2013, (vi) Under which deposits are accepted by a company declared as Nidhi or a mutual benefit society under section 406 of the Companies Act, 2013, (vii) Falling within the meaning of Chit business as defined in clause (d) of section 2 of Chit Fund Act, 1982, and (viii) Under which contributions made are in the nature of subscription to a mutual fund.
SEBI REGULATIONS, 1999 (CIS)	CONDITIONS FOR ELIGIBILITY: (June 2016) (i) The applicant is set up and registered as a Company under Companies Act, 2013 (ii) The applicant has specified the managing of collective investment scheme as one of its main objects in its MOA; (iii) The Applicant has a Net worth of not less than 5 Crores. However, at the

- time of making the application, the applicant shall have a minimum net worth of 3 Crores which has to be increased to 5 Crores within the time of 3 years from date of grant of registration;
- (iv) The applicant is a fit and proper person;
 - (v) The applicant has adequate infrastructure to operate collective investment scheme in accordance with provisions of these regulation;
 - (vi) The directors or KMP of applicant should consist of person of honesty and integrity having adequate professional experience in related field and have not been convicted for an offence involving moral turpitude or for any economic offence or for the violation of any securities laws;
 - (vii) At least **50% of directors** of CIS shall consist of **Independent directors** and are not directly or indirectly associated with the persons who have control over CIS;
 - (viii) No person, directly or indirectly connected with the applicant has in the past been refused registration by SEBI;
 - (ix) At least one of the directors on the board who is not subject to retirement, is a representative of the trustee;
 - (x) The CIS company is not a trust of any CIS Scheme;

GRANT OF CERTIFICATE

SEBI shall grant certificate of registration to the applicant, in case the following is fulfilled:-

- (i) An application without deficiencies has been received,
- (ii) Applicant has complied with specified requirements,
- (iii) Registration fees has been called upon by SEBI and duly paid by the applicant.

TERMS AND CONDITIONS

The certificate granted should be subject to following conditions:-

- (i) Any director of the CIMC should not be a director in any other CIMC unless such person is an independent director and approval of SEBI and that of CIMC in which such person is an independent director, has been obtained;
- (ii) The CIMC should forthwith inform SEBI of any material change in the information or particulars previously furnished, which have a bearing on the certificate granted by it;
- (iii) Appointment of a director of a CIMC should be made with the prior approval of the trustee;
- (iv) The CIMC should comply with provisions of the Act and these regulations;
- (v) No change in the controlling interest of the CIMC shall be made without obtaining prior approval of SEBI, the trustee and the unit holders holding at – least one – half of the nominal value of the unit capital of the scheme;
- (vi) CIMC should take adequate steps to redress the grievances of the investors within one month from the date of receipt of the complaint from the aggrieved investor.

RESTRICTIONS ON BUSINESS ACTIVITIES (Dec 2016, June 2014, Dec 2013, Dec 2010)

Collective Investment Management Company should not:

- (i) Undertake any activity other than that of managing the scheme;
- (ii) Act as a trustee of any scheme;
- (iii) Launch any scheme for the purpose of investing in securities;
- (iv) Invest in any schemes floated by it.

However, it has been provided that a CIMC may invest in its own scheme, if it makes a disclosure of its intention to invest in the offer document of the scheme, and does not charge any fees on its investment in that scheme.

OBLIGATIONS OF COLLECTIVE INVESTMENT MANAGEMENT COMPANY

Every Collective Investment Management Company should:

- (i) Be responsible for managing funds or properties of scheme on behalf of the unit holders;

- (ii) Exercise due diligence and care in managing assets and funds of the scheme;
- (iii) Also be responsible for the acts of commissions and omissions by its employees or the persons whose services have been availed by it;
- (iv) Appoint registrar and share transfer agents and should also abide by their respective Code of Conducts as specified by SEBI;
- (v) Give monthly receipts for all monies received and report of receipts & payments to SEBI;
- (vi) Hold a meeting of Board of Directors to consider the affairs of scheme, at least twice in every 3 months and also ensure that its officers or employees do not make improper use of their position or information to gain an advantage for themselves or for any other person or to cause detriment to the scheme;
- (vii) Obtain adequate insurance against the properties of the schemes & comply with such guidelines, directives, circulars and instructions as may be issued by SEBI.

OBLIGATION OF TRUSTEES: (Dec 2008)

- (i) Ensuring that CIMC has necessary office infrastructure and has appointed all Key personnel including managers for scheme
- (ii) Taking remedial steps and informing SEBI when the conduct of business of scheme is not carried on as per the requirements of the regulations.
- (iii) Convening a meeting of unit holders in their interest effecting any change in the features of units.
- (iv) Reviewing the activities carried out by the CIMC.

DISCLOSURE IN THE OFFER DOCUMENT

The Collective Investment Management Company before launching any scheme should file a copy of the offer document of the scheme with SEBI and pay filing fees as specified.

The offer document should contain such information as specified. The offer document should also contain true and fair view of the scheme and adequate disclosures to enable the investors to make informed decision.

SEBI may in the interest of investors require the CIMC to carry out such modifications in the offer document as it deems fit.

In case no modifications are suggested by SEBI in the offer document within 21 days from the date of filing, the Collective Investment Management Company may issue the offer document to public.

ALLOTMENT OF UNITS AND REFUNDS OF MONEY

The Collective Investment Management Company should specify in the offer document the minimum and the maximum subscription amount it seeks to raise under the scheme; and in case of over – subscription, the process of allotment of the amount over – subscribed.

The CIMC should refund the application money to the applicants, if the scheme fails to receive the minimum subscription amount.

Any amount refundable should be refunded within a period of six weeks from the date of closure of subscription list, by Registered A. D. and by cheque or demand draft. In the event of failure to refund the amounts within the period specified, the CIMC has to pay interest to the applications at a rate of 15% per annum on the expiry of six weeks from the date of closure of the subscription list.

Listing of schemes: The units of every scheme shall be listed immediately after the date of allotment of units and not later than six weeks from the date of closure of the scheme on each of the stock exchanges as mentioned in the offer document.

UNIT 10: RESOURCE MOBILIZATION IN INTERNATIONAL CAPITAL MARKET

REGULATORY FRAMEWORK IN INDIA

- The Foreign Currency Convertible Bonds and Ordinary Shares (Through Depository Receipt Mechanism) Scheme, 1993.
- Foreign Currency Exchangeable Bonds Scheme, 2008
- Notifications/Circulars issued by Ministry of Finance (MoF), GOI.
- Consolidated FDI Policy.
- RBI Regulations/Circulars.
- Companies Act and Rules thereunder.
- Listing Agreements.
- Depository Receipts scheme, 2014

EURO ISSUE	Euro issue means modes of raising funds by an Indian company outside India in foreign currency. This method is being used by the Indian Company for raising funds from outside India in the form of ADR/GDR.
DEPOSITORY RECEIPTS	Depository Receipts (DRs) are negotiable securities and outside India by a Depository bank, on behalf of an Indian company, which represent the local Rupee denominated equity shares of the company held as deposit by a Custodian bank in India. GLOBAL DEPOSITORY RECEIPTS: (June 2018) (Section 2(44) of the Companies Act, 2013) Global Depository Receipt means any instrument in the form of a depository receipt, by whatever name called, created by a foreign depository outside India and authorized by a company making an issue of such depository receipts. A company issued Global Depository Receipts (GDRs) in accordance with the provisions of Companies (Issue of Global Depository Receipts) Rules, 2014. It is a form of depository receipt or certificate created by the Overseas Depository Bank outside India denominated in dollar and issued to non – resident investors against the issue of ordinary shares or foreign currency convertible bonds of issuing company. In short, it is basically a negotiable instrument denominated in US dollars or Euro. It is traded in Europe or the US or both. In fact, GDR holders enjoy all economic benefits of the underlying shares but have none of the corporate rights like right to vote. AMERICAN DEPOSITORY RECEIPT (ADR): An American Depository Receipt is a dollar denominated form of equity ownership in a non – US company. It represents the foreign shares of the company held on deposit by a custodian bank in the company's home country and carries the corporate and economic rights of the foreign shares. Listing of ADR may only take place in the US stock markets like NYSE & NASDAQ etc. The company which issued ADR, shall comply with the requirements of Securities and Exchange Commission (SEC).

Step – 1: The Indian Issuer Company issues rupee denominated Equity Shares to Domestic Custodian.



Step – 2: Domestic Custodian Retains rupee denominated shares and instructs overseas Depository to issue Depository Receipts.



Step – 3: Based on instructions of Domestic Custodian, Overseas Depository issues Depository Receipts to foreign investors.



Step – 4: Foreign Investors receive their depository receipts.



Step – 5: The issuer Indian company shall ensure listing of depository receipts in the foreign stock exchanges like NYSE &

PROVISIONS FOR ISSUE OF GDR/ADR UNDER THE COMPANIES ACT, 2013

Section 41 of the Companies Act, 2013 says “A company may, after passing a special resolution in its general meeting, issue depository receipts in any foreign country in such manner, and subject to such conditions, as may be prescribed”.

THE COMPANIES (ISSUE OF GLOBAL DEPOSITORY RECEIPTS) RULES, 2014

ELIGIBILITY: Any company may issue depository receipts provided such company is eligible as per these rules and relevant provisions of the Foreign Exchange Management Rules and Regulations.

CONDITIONS: The following conditions to be fulfilled by a company for issue of depository receipts:-

(a) **Approval from Board of Directors:** The Board of Directors of the company intending to issue depository receipts shall pass a resolution authorizing the company to do so.

(b) **Approval from shareholders:** The Company shall take prior approval of its shareholders by passing a special resolution to be passed at a general meeting.

(c) **Appointment of Overseas Depository:** The depository receipts shall be issued by an overseas depository bank appointed by the company and the underlying shares shall be kept in the custody of a domestic custodian bank.

(d) **Compliances of FEMA:** The Company shall ensure that all the applicable provisions of the Scheme and the rules or regulations or guidelines issued by the Reserve Bank of India are complied with before and after the issue of depository receipts.

(e) **Appointment of professionals or merchant banker:** The Company shall appoint a merchant banker or a practicing company secretary or a practicing chartered accountant or a practicing cost accountant to oversee all the compliances relating to issue of depository receipts.

Such compliance report shall be placed at the meeting of the Board of Directors or its

committee in this regard immediately after closure of all formalities of the issue of depository receipts.

METHOD OF ISSUE OF DEPOSITORY RECEIPTS

(a) The depository receipts can be issued by way of **public offering** or **private placement** or in any other manner prevalent abroad and may be listed or traded in an overseas listing or trading platform.

(b) The depository receipts may be issued against issue of new shares or may be sponsored against shares held by shareholders of the company in accordance with such conditions as the Central Government or Reserve Bank of India may prescribe or specify from time to time.

(c) The underlying shares shall be allotted in the name of the overseas depository bank and against such shares, the depository receipts shall be issued by the overseas depository bank abroad.

VOTING RIGHTS

(a) A holder of depository receipts **may** become a member of the company and shall be entitled to vote only **on the conversion** of the depository receipts into shares.

(b) Until the conversion of depository receipts, the overseas depository shall be entitled to vote on behalf of the holders of depository receipts **as per the terms of the agreement entered into between the depository and holders of depository receipts and the company.**

PROCEEDS OF ISSUE:

The proceeds of issues of depository receipts shall either be remitted to a bank account in India or deposited in an Indian bank operating abroad or any foreign bank having operations in India. In short, the **proceeds of the sale** depository receipts shall be credited to the respective bank account of the shareholders.

NON – APPLICABILITY:

The provisions under the Companies Act, 2013 relating to public issue of shares or debentures shall not apply to issue of depository receipts abroad. Further, the offer document issued in respect of depository receipts, shall not be treated as a prospectus within the meaning of the Companies Act, 2013. It means the provisions applicable to a prospectus shall not apply to a depository receipts offer document.

Note: Until the redemption of depository receipts, the name of the overseas depository bank shall be entered in the Register of Members of the company.

EURO ISSUE PROCESS/Framework of ADR/ GDR (June 2018)

Listed Company: A listed company can issue ADR/GDR to the person resident outside India under the FDI scheme.

Unlisted Company: An unlisted company can raise capital (Fund) from abroad (**vide RBI Notification vide A. P. (DIR Series) Circular No. 69, dated 8th November, 2013**) without the requirement of prior or subsequent listing in India, initially for a period of two years, subject to the following conditions:-

(a) Unlisted Indian companies shall list abroad only on exchanges in IOSCO/FATF compliant jurisdiction or those jurisdiction with which SEBI has signed bilateral agreements,

(b) The ADRs/GDRs shall be issued subject to Sectoral cap;

(c) The number of underlying equity shares offered for issuance of ADRs/GDRs to be kept with the local custodian and ratio of ADRs/GDRs to equity shares shall be decided upfront based on applicable FDI pricing norms of equity shares of unlisted company;

(d) The unlisted Indian company shall comply with the instructions on downstream investment as notified by RBI;

(e) The criteria of eligibility of unlisted company raising funds through ADRs/GDRs shall be as prescribed by Government of India;

(f) The capital raised abroad may be utilized for retiring outstanding overseas debt or for bona fide operations abroad including for acquisitions;

(g) In case the funds raised are not utilized abroad as stipulated above, the company shall repatriate the funds to India within 15 days and such money shall be parked only with AD and shall be used for eligible purposes.

Note: There is no end use restriction on the proceeds of ADR/GDR but such funds cannot be used in the real estate or the stock market.

A company which plans for issue of ADR/GDR shall take the following approvals:

Approval of Board of Directors: The Board of Directors shall approve the proposal to raise money from the International Market in the form of ADR/GDR/FCCBs.

In this regard, a board resolution is to be passed to approve the raising of finance by issue of GDRs/FCCBs indicating specific purposes for which funds are required, quantum of the issue, country in which issue is to be launched, time of the issue etc.

Approval of Shareholders: Thereafter, a special resolution under Section 41 of the Companies Act, 2013 is required to be passed at a general meeting of the shareholders.

Approval of Ministry of Finance – “In Principle and Final”: In case of FCCB issue exceeding US \$ 100 million, the company needs to apply to Ministry of Finance for approval.

With respect to ADR/GDR, guidelines issued on the subject dated 19 – 1- 2000 sought ADR/GDR under the automatic route and therefore the requirement of obtaining approval of Ministry of Finance, Department of Economic Affairs has been dispensed with.

Further, private placement of ADR/GDR will also not require prior approval provided the issue is managed by investment banker.

Approval of Ministry of Company Affairs: The issuer company requires approval from Ministry of Company Affairs where the convertible bonds are being issued, which after such conversion is likely to increase the subscribed capital of the company.

Approval of Reserve Bank of India: The issuer company has to obtain approvals from Reserve Bank of India under circumstances specified under the guidelines issued by the concerned authorities. FCCB covered under the automatic route requires no RBI approval. FCCB issue which exceeds USD 50 million but does not exceed 100 million need to apply to RBI.

In – principle listing approval from domestic Stock Exchanges: The issuing company has to obtain in – principle listing approval from the domestic stock exchanges (like BSE & NSE) for listing of underlying shares which shall be lying in the custody of domestic custodian. These shares, when released by the custodian after cancellation of GDR, are traded on Indian stock exchanges like any other equity shares.

Consent of Financial Institutions: In case a company has term loan from any financial institutions or Bank, such company should take consent from the Bank/financial institution before raising funds from the International Market.

DOCUMENTATION FOR ADR/GDR

Subscription Agreement: Subscription agreement provides that Lead Managers and other managers agree, severally and not jointly, with the company, subject to the satisfaction of certain conditions, to subscribe for GDRs at the offering price set forth. It may provide that obligations of managers are subject to certain conditions precedent.

Depository Agreement: Depository agreement lays down the detailed arrangements entered into by the company with the Depository, the forms and terms of the depository receipts which are represented by the deposited shares.

It also sets forth the rights and duties of the depository in respect of the deposited shares and all other securities, cash and other property received subsequently in respect of such deposited shares.

Custodian Agreement: Custodian works in co – ordination with the depository and has to observe all obligations imposed on it including those mentioned in the depository agreement. The custodian is responsible solely to the depository.

In the case of the depository and the custodian being same legal entity, references to them separately in depository agreement or otherwise may be made for convenience and the legal entity will be responsible for discharging both functions directly to the holders & the company.

INTERMEDIARIES FOR EURO ISSUES: The following agencies are normally involved in the Euro issue:

Lead Manager: As like public issues, the issuer company is to appoint an international lead manager. The lead manager plans the detailed strategy based on the global demand levels and patterns and structure the offering accordingly. Based on his assessment of global demands level, the lead manager will prepare a Red – Herring Prospectus. He will also coordinate with the syndicate member for completion of all formalities for issue of ADR/GDR.

Co – Lead/Co – Manager: In consultation with the lead manager, the company has to appoint co – lead/co – manager to coordinate with the issuing company to make the smooth launching of the Euro issue.

Overseas Depository Bank: It is the bank which is authorized by the issuing company to issue Depository Receipts against issue of ordinary shares or Foreign Currency Convertible Bonds of issuing company.

Domestic Custodian Bank: This is a banking company which acts as custodian for the ordinary shares or Foreign Currency Convertible Bonds of an Indian company, which are issued by it. The domestic custodian bank functions in co – ordination with the depository bank. When the shares are issued by a company the same are registered in the name of depository and physical possession is handed over to the custodian. The beneficial interest in respect of such shares, however, rests with the investors.

Listing Agent: The appointment of listing agent is necessary to coordinate with issuing company for listing the securities on Overseas Stock Exchanges.

Legal Advisors: The issuing company should appoint legal advisors to guide the company and the lead manager to prepare offer document, depository agreement, indemnity agreement and subscription agreement.

Printers: The issuing company should appoint printers of international repute for printing Officer Circular.

Auditors: The role of issuer company's auditors is to prepare the auditor's report for inclusion in the offer document, provide requisite comfort letters and reconciliation of the issuer company's accounts.

Underwriters: It is desirable to get the Euro issue underwritten by banks and syndicates. Usually, the underwriters subscribe for a portion of the issue with arrangements for tie – up for the balance with their clients. In addition, they will interact with the influential investors and assist the lead manager to complete the issue successfully.

MISCELLANEOUS IMPORTANT PROVISIONS OF ADR/GDR

Sponsored ADR/GDR Issue: An Indian company can also sponsor an issue of ADR/GDR. Under this method, the company offers its resident shareholders a choice to submit their shares back to the company so that on the basis of such shares, ADRs/GDRs can be issued abroad. The proceeds of the ADR/GDR issue are remitted back to India and distributed among the resident investors who had offered their Rupee denominated shares for conversion. These proceeds can be kept in Resident Foreign Currency (Domestic) accounts in India by the resident shareholders who have tendered such shares for conversion into ADRs/GDRs.

FUNGIBILITY SCHEME: (Dec 2008, June 2016)

Fungibility means Exchangeability. Under Fungibility Scheme, a registered stock broker can purchase shares of an Indian company from the domestic stock market for purpose of converting into ADRs/GDRs based on instructions received from overseas investors. As per the applicable guidelines, an Indian company can allow two types of fungibility of its shares into ADR/GDR.

One Way Fungibility: Under this scheme, an investor could cancel their depository receipt and recover the proceeds by selling the underlying shares in the Indian market whereas in this scheme, Depository Receipts once redeemed could not be converted into shares. In other words, this is one way traffic like a holder of Depository Receipts (DR) can convert their DR into shares but conversion of such shares into DR is not possible.

Two Way Fungibility: Under this scheme, a holder of DR could convert its DR into shares and such shares can also be reconverted into DRs. In other words, the shares so released can be reconverted by the company into DRs for purchase by the overseas investors.

ROADSHOWS:

Roadshow means promotion of ADR/GDR issue before the potential investors. In other words, it is a presentation by an issuer of securities before the potential investors and analysis. The road show is intended to create awareness, excitement and interest in the proposed public issue. In the roadshow, the issuer company covers the following details about itself:-

- (a) History
- (b) Organizational structure
- (c) Principal objects
- (d) Business lines
- (e) Position of the company in Indian and international market
- (f) Past performance of the company
- (g) Future plans of the company
- (h) Competition – domestic as well as foreign
- (i) Financial results and operating performance
- (j) Valuation of shares
- (k) Review of Indian stock market and economic situations.

	Accordingly, at road shows, series of information presentations are organized in selected cities around the world with analysis and potential institutional investors. It is, in fact, a conference by the issuer with the prospective investors. Road show is arranged by the lead manager by sending invitation to all prospective investors.
FOREIGN CONVERTIBLE CURRENCY BONDS (FCCBS) (December 2017)	A Foreign Currency Convertible Bond (FCCB) is a quasi-debt instrument which is issued by any <u>corporate entity</u>, <u>international agency</u> or <u>sovereign state</u> to the investors all over the world. They are denominated in any freely convertible foreign currency. Euro Convertible Bonds are usually issued as unsecured obligation of the borrowers. At the time of issue, FCCB is like a debt and after maturity; it becomes an equity share or depository receipt. In short, FCCB represents equity linked debt security which can be converted into shares or into depository receipts on its maturity. The investors of FCCBs have the option to convert it into equity in accordance with pre – determined formula at the time of issue of FCCB. FCCBs are bonds issued by an Indian company to raise money in a foreign currency. It is like a loan to the Company and it has fixed rate of interest. The Buyers of FCCBs have the option of redeeming their investment or converting the bonds into equity at maturity. At maturity of FCCB, the payment of principal amount is usually in the currency in which the money is raised. <u>Benefits to the Issuer Company</u> (i) It gives issuer companies to accessibility in foreign markets. (ii) FCCB acts like both a debt and equity instrument. Like bonds it gives regular interest and principal payments, but these bonds also give the bondholder the option to convert the bond into equity. (iii) It is a low cost debt as the interest rates given to FCCBs are normally 30 – 50 percent lower than the market rate because of its equity component. (iv) Conversion of bonds into stocks takes place at premium price to market price. Conversion price is fixed when the bond is issued. So, lower dilution of the company stocks. (v) It saves risks of immediate equity dilution as in the case of public shares. Unlike debt, FCCB does not require any rating nor any covenant like securities, cover etc. (vi) It can be raised within a month while pure debt takes a longer period to raise. Because the coupon is low and usually payable at the time of redeeming the instrument, the cost of withholding tax is also lower for FCCBs compared with other ECB instruments. <u>Benefits to Investors</u> (i) It has advantage of both equity and debt. (ii) It gives the investor much of the upside of investment in equity, and the debt portion protects the downside. (iii) Assured return on bond in the form of fixed coupon rate payments. (iv) Ability, to take advantage of price appreciation in the stock by means of warrants attached to the bonds, which are activated when price of a stock reaches a certain point. (v) Significant Yield to Maturity (YTM) is guaranteed at maturity. (vi) Lower tax liability as compared to pure debt instruments due to lower coupon rate. <u>Eligibility:</u> An issuing company raising funds by issuing Foreign Currency Convertible Bonds or ordinary shares for equity issues through Global Depository Receipts is required to obtain prior permission of the Department of Economic Affairs, Ministry of Finance, Govt. of India.
FOREIGN CURRENCY EXCHANGEABLE BONDS (FCEBS)	Foreign Currency Exchangeable Bond (FCEB) means a bond expressed in foreign currency, the principal and interest in respect of which is payable in foreign currency, issued by an Issuing Company and subscribed to by a person who is a resident outside India, in foreign currency and exchangeable into equity share of another company, to be called the Offered Company, in any manner, either wholly, or partly or on the basis of any equity related

warrants attached to debt instruments. The FCEB may be denominated in any freely convertible foreign currency. FCEB is regulated by Foreign Currency Exchangeable Bond Scheme, 2008 issued by Ministry of Finance, Department of Economic Affairs.

Features of FCEB

Issued by an issuing company, being an Indian company:

- (a) It is a bond expressed in foreign currency.
- (b) The principal and the interest thereon is payable in foreign currency.
- (c) This instrument can only be subscribed by a person resident outside India.
- (d) It is exchangeable into equity shares of another group company, being offered company which is an Indian company.
- (e) This instrument can either wholly or partly on the basis of any equity related warrants be attached to debt instruments.

Note: Issuing Company to be the part of promoter group of offered company and the offered company is to be listed and is to be eligible to receive foreign investment.

Under this option, an issuer company may issue FCEBs in foreign currency, and these FCEBs are convertible into shares of another company (offered company) that forms part of the same promoter group as the issuer company.

Eligibility Conditions for Issuing FCEBs

The Issuing Company shall be part of the promoter group of the Offered Company and shall hold the equity share/s being offered at the time of issuance of Foreign Currency Exchangeable Bond.

(i) The Offered Company shall be a listed company which is engaged in a sector eligible to receive Foreign Direct Investment and eligible to issue or avail of Foreign Currency Convertible Bond or External Commercial Borrowings.

(ii) An Indian Company, which is not eligible to raise funds from the Indian securities market, including a company which has been restrained from accessing the securities market by the SEBI shall not be eligible to issue Foreign Currency Exchangeable Bond.

(iii) The subscriber to the Foreign Currency Exchangeable Bond shall comply with the Foreign Direct Investment policy and adhere to the sectoral caps at the time of issuance of Foreign Currency Exchangeable Bond.

Prior approval of Foreign Investment Promotion Board, wherever required under the Foreign Direct Investment policy, should be obtained. Entities prohibited to buy, sell or deal in securities by SEBI will not be eligible to subscribe to Foreign Currency Exchangeable Bond.

UNIT 11: INDIAN DEPOSITORY RECEIPTS

INTRODUCTION	Now, due to globalization and technology advancement, the Securities Market has become international. Companies that previously had to raise capital in the domestic market can now tap foreign sources of capital in overseas market to raise fund from international market. As India is a preferred investment destination among international investors, the Government of India has introduced the concept of Indian Depository Receipts (IDRs) to facilitate listing by foreign companies on India Stock Exchanges. Indian Depository Receipts (IDRs) are like American Depository Receipts (ADRs) or Global Depository Receipts (GDRs), except that the issuer is a foreign company raising funds from the Indian market. IDRs are rupee – denominated and created by a domestic depository against the underlying equity shares of a foreign company. IDRs Holders have all rights except attending annual general meetings and voting on resolutions, other rights are available. Indian Depository Receipt means an instrument in the form of a depository receipt issued by Domestic Depository in India against the underlying equity shares of issuing company i. e. (Foreign Company).
ADVANTAGES OF INDIAN DEPOSITORY RECEIPTS	<u>Benefits to the Issuing Company:</u> (i) Provides access to a large pool of capital to the issuing capital. (ii) Gives brand recognition in India to the issuing company. (iii) Facilitates acquisitions in India. (iv) Provides an exit route for existing shareholders. <u>Benefits to Investors:</u> (i) Provides portfolio diversification to the investor. (ii) Gives the facility of ease of investment. (iii) There is no need to know your customer norms. (iv) No resident Indian individual can hold more than \$200,000 worth of foreign securities purchased per year as per Indian foreign exchange regulations (FEMA). However, this will not be applicable for IDRs which gives Indian residents the chance to invest in an Indian listed foreign entity.
REGULATORY FRAMEWORK OF IDRS	<u>Regulatory Bodies:</u> (i) The Securities and Exchange Board of India (ii) The Ministry of Corporate Affairs (iii) The Reserve Bank of India <u>Statutes Governing IDRs:</u> (i) Section 390 of the Companies Act, 2013 (ii) Rule 13 of the Companies (Registration of Foreign Companies) Rules, 2014 (iii) SEBI (Issue of Capital and Disclosure Requirements) Regulations, 2018 <u>RULE 13 OF THE COMPANIES (REGISTRATION OF FOREIGN COMPANIES) RULES, 2014</u> These rules are applicable to all foreign companies which intend to raise funds from the Indian Market via IDR. In other words, these rules are applicable to those companies incorporated outside India, whether they have or have not established any place of business in India. <u>ELIGIBILITY FOR ISSUE OF IDRS</u>

An issuing company can issue IDRs only if it satisfies the following conditions:—

- (i) Pre – issue paid – up capital and free reserves of at least US\$50 million;
- (ii) Has a minimum average market capitalization during the last 3 years in its parent country of at least US\$100 million;
- (iii) Has a continuous trading history on a stock exchange in its parent country for at least 3 immediately preceding years;
- (iv) It has distributable profits for at least 3 out of immediately preceding 5 years;
- (v) It fulfills such other eligibility criteria as may be laid down by SEBI.

PROCEDURE FOR MAKING AN ISSUE OF IDRS: (Dec 2014, June 2018)

- ✓ In issuing company is required to obtain the **necessary approvals** or exemption from the appropriate authorities from the **home country**;
- ✓ It has to **appoint** an **overseas custodian bank**, a **domestic depository** and a **merchant banker** for the purpose of issue of IDRs.
- ✓ The issuing company can **deliver the underlying equity shares** to an Overseas Custodian Bank and the said bank shall authorize the domestic depository to issue IDRs.
- ✓ The issuing company cannot raise funds in India by issuing IDRs unless it has obtained **prior permission from SEBI**.
- ✓ An application for seeking permission should be made to the SEBI **at least 90 days** prior to the opening date of IDRs.
- ✓ The issuing company has to file through a merchant banker or the domestic depository a **due diligence report** with the Registrar and also with SEBI. The draft prospectus has to be filed with SEBI, through the merchant banker, at least 21 days prior to the filing of an application.
- ✓ If within 60 days from the date of **submission of draft prospectus**, SEBI specifies any changes to be made therein, the prospectus shall not be filed with SEBI/Registrar of Companies unless such changes have been incorporated therein.
- ✓ The issuing company, seeking permission should obtain in – principal **listing permission** from one or more stock exchanges having nationwide trading terminals in India.
- ✓ Issuing company **may appoint underwriters** registered with SEBI to underwrite issue of IDRs.

REGISTRATION OF DOCUMENTS:

The Merchant Banker for the issue of IDRs is required to submit following documents or information to SEBI and ROC, New Delhi for registration, namely:-

- (i) Instrument defining the **constitution** of the issuing company.
- (ii) The **provisions** having the force of law by or under which the incorporation of the issuing company was effected.
- (iii) If the issuing company has established place of business in India, **address of its principal office** in India.
- (iv) If the issuing company does not establish principal place of business in India, an address in India where the said instrument, enactments or provision or copies thereof are available for public inspection.

(v) A certified copy of the **certificate of incorporation** of the issuing company in the country in which it is incorporated.

(vi) Copies of the **agreements** entered into between the issuing company, the overseas custodian bank and the domestic depository.

(vii) If any document or any portion thereof required to be filed with the SEBI/Registrar of Companies is **not in English language**, a **translation** of that document or portion thereof in English is also required to be attached duly certified and attested by the responsible officer.

LISTING OF IDRs: (Dec 2012) The IDRs issued should be listed on the recognized Stock Exchange(s) in India as specified and such IDRs may be purchased, possessed and freely transferred by a person resident in India.

However, the IDRs issued by an issuing company may be purchased, possessed and transferred by a person other than a person resident in India if such Issuing Company obtains specific approval from Reserve Bank of India in this regard or complies with any policy or guidelines that may be issued by RBI on the subject matter.

DISCLOSURE:

Continuous Disclosure Requirements: Every issuing company shall comply with such continuous disclosure requirements as may be specified by SEBI in this regard.

Disclosure of the following matters are to be specified in the Prospectus

- (i) General Information
- (ii) Capital Structure of the Company
- (iii) Terms of the Issue
- (iv) Particulars of Issue
- (v) Company, Management and Project
- (vi) Report
- (vii) Inspection of Documents

UNIT 12: FOREIGN PORTFOLIO INVESTORS
SEBI (Foreign Portfolio Investors) Regulations, 2014

SEBI (FOREIGN PORTFOLIO INVESTORS) REGULATIONS, 2014	
DEFINITIONS	“Foreign Portfolio Investor” means a person who satisfies the eligibility criteria and has been registered under FPI Regulations, which shall be deemed to be an intermediary. However, any foreign institutional investor or qualified foreign investor who holds a valid certificate of registration shall be deemed to be a foreign portfolio investor till the expiry of the block of three years for which fees have been paid as per the SEBI (Foreign Institutional Investors) Regulations, 1995. <i>(Asked in June 2019)</i> “Offshore Derivative Instrument” means any instrument, by whatever name called, which is issued overseas by a foreign portfolio investor against securities held by it that are listed or proposed to be listed on any recognized stock exchange in India, as its underlying; <i>(asked in December 2017)</i>
REGISTRATION OF FPI	- Any person shall not buy, sell or otherwise deal in securities as a foreign portfolio investor unless it has obtained a certificate granted by the designated depository participant on behalf of SEBI. - Further that a qualified foreign investor may continue to buy, sell or otherwise deal in securities subject to the provisions of these regulations, for a period of one year from the date of commencement of these regulations, or until he obtains a certificate of registration as foreign portfolio investor, whichever is earlier. - An application for the grant of certificate as foreign portfolio investor shall be made to the designated depository participant in such form and such fees as prescribed in the regulations.
ELIGIBILITY CRITERIA FOR FOREIGN PORTFOLIO INVESTOR REGISTRATION	(1) An applicant desirous of foreign portfolio investor registration should, <i>inter alia</i>, satisfy the following conditions: (a) It should not be resident in India or a Non-Resident Indian. (b) It should be a resident of a country:- - whose securities market regulator is a signatory to IOSCO’s Multilateral MOU or a signatory to a bilateral MOU with SEBI; - Provided that an applicant falling under Category I foreign portfolio investor, as defined in clause (a) of Regulation 5, shall be considered as eligible for registration, if the applicant is a resident in a country as may be approved by the Government of India. (c) the applicant being a bank, is a resident of a country whose central bank is a member of Bank for International Settlements; (d) the applicant is not resident in a country identified in the public statement of Financial Action Task Force as: (i) a jurisdiction having a strategic Anti-Money Laundering or Combating the Financing of Terrorism deficiencies to which counter measures apply; or (ii) a jurisdiction that has not made sufficient progress in addressing the deficiencies or has not committed to an action plan developed with the Financial Action Task Force to address the deficiencies; (e) the applicant is not a non-resident Indian; (ea) where non-resident Indians or overseas citizens of India or resident Indians are constituents of the applicant or an existing foreign portfolio investor – (i) the contribution of a single non-resident Indian or overseas citizen of India or resident Indian shall be below twenty-five percent. of the total contribution in the corpus of the applicant or the existing foreign portfolio investor; (ii) the aggregate contribution of non-resident Indians, overseas citizens of India and resident Indians shall be below fifty percent. of the total contribution

in the corpus of the applicant or the existing foreign portfolio investor;

Explanation: The contribution of Resident Indian is permitted if made through the Liberalised Remittance Scheme (LRS) approved by Reserve Bank of India in global funds whose Indian exposure is less than 50%.

(iii) the non-resident Indians, overseas citizens of India and resident Indians shall not be in control of the applicant or of the existing foreign portfolio investor:

Nothing contained in sub-clause (iii) shall apply if the applicant or an existing foreign portfolio investor is an 'offshore fund' for which 'No Objection Certificate' has been issued by the Board in terms of the Securities and Exchange Board of India (Mutual Funds) Regulations, 1996, or is controlled by an Investment Manager which is controlled and/or owned by non-resident Indian or overseas citizen of India or resident Indian if the following conditions are satisfied:

- I. such Investment Manager is appropriately regulated in its home jurisdiction and registered with the Board as a non-investing foreign portfolio investor, or
- II. such Investment Manager is incorporated or setup under the Indian laws and appropriately registered with the Board.

Nothing contained in clause (ea) shall apply to non-investing foreign portfolio investor or if the applicant or an existing foreign portfolio investor proposes to invest or invests only in units of schemes floated by mutual funds in India.

(eb) the applicant and an existing foreign portfolio investor and their underlying investors contributing twenty-five percent. or more in the corpus of the applicant or existing foreign portfolio investor or identified on the basis of control, shall not be persons mentioned in the Sanctions List notified from time to time by the United Nations Security Council and shall not be from a jurisdiction which is identified in the public statement of the Financial Action Task Force as:

(i) a jurisdiction having a strategic Anti-Money Laundering or Combating the Financing of Terrorism deficiencies to which counter measures apply; or

(ii) a jurisdiction that has not made sufficient progress in addressing the deficiencies or has not committed to an action plan developed with the Financial Action Task Force to address the deficiencies.

(Inserted w.e.f 31.12.2018)

(f) It should legally be permitted to invest in securities outside the country of its incorporation or establishment or place of business.

(g) It should be authorized by its Memorandum of Association and Articles of Association or equivalent document(s) or the agreement to invest on its own behalf or on behalf of its clients.

(h) the applicant has sufficient experience, good track record, is professionally competent, financially sound and has a generally good reputation of fairness and integrity;

(i) the grant of certificate to the applicant is in the interest of the development of the securities market;

(j) It must be a fit and proper person as prescribed.

	(k) Any other criteria as specified by SEBI; Provided that, in respect of a Category I or Category II foreign portfolio investor, as defined in clause (a) or clause (b) of Regulation 5, clauses (f), (g) (h) and (i) of this regulation shall not be applicable. (2)(1) An applicant or an existing foreign portfolio investor shall comply with clause (ea) of sub-regulation (1) within a period of two years from the date of coming into force of this regulation or from the date of registration, whichever is later. (2) An existing foreign portfolio investor shall comply with clause (eb) of sub-regulation (1) within a period of three months from the date of coming into force of this regulation. (3) A foreign portfolio investor who remains non-compliant even after the period specified in clauses (1) and (2) of this sub-regulation shall be prohibited from making any fresh purchase of securities and such foreign portfolio investor shall liquidate its existing position in the Indian securities market within a period of one hundred and eighty days. (4) In case of temporary breach of investment limits specified in clause (ea) of sub-regulation (1), the foreign portfolio investor shall comply with the eligibility conditions within ninety days of the breach and in case the foreign portfolio investor remains non-compliant with the said requirement even after ninety days, then no fresh purchases shall be permitted and such foreign portfolio investor shall liquidate its existing position in Indian securities market within a period of the next one hundred and eighty days.
CATEGORIES OF FPI	An applicant shall seek registration as a foreign portfolio investor in one of the categories mentioned hereunder or any other category as may be specified by SEBI from time to time: Category I FPI includes: ✓ Government and Government-related investors such as central banks, Governmental agencies, sovereign wealth funds and ✓ International or multilateral organizations or agencies. Explanation: A “government agency” shall mean an entity in which more than 75% of ownership or control is held by the Government of a foreign country. Category II FPIs includes: ✓ appropriately regulated broad based funds such as mutual funds, investment trusts, insurance/reinsurance companies; ✓ appropriately regulated persons such as banks, AMCs, investment managers/advisors, portfolio managers, Broker Dealers & Swap Dealers; ✓ broad based funds that are not appropriately regulated but whose investment manager is appropriately regulated. ✓ university funds and pension funds; and ✓ university-related endowments already registered with SEBI as FIIs or sub accounts. Category III FPIs include: • all others not eligible under Category I and II FPIs such as endowments, charitable societies, charitable trusts, foundations, corporate bodies, trusts, individuals and family offices.

APPROVAL OF DESIGNATED DEPOSITORY PARTICIPANT (December 2017)	APPLICATION FOR APPROVAL TO ACT AS DESIGNATED DEPOSITORY PARTICIPANT: ✓ Any person shall not act as designated depository participant unless it has obtained the approval of SEBI. However, a custodian of securities which is registered with SEBI as on the date of commencement of these regulations shall be deemed to have been granted approval as designated depository participant subject to the payment of fees as prescribed in regulations. ✓ Further, A qualified depository participant which has been granted approval by SEBI prior to the commencement of these regulations, having opened qualified foreign investor account as on date of notification of these regulations, shall be deemed to have been granted approval as designated depository participant subject to the payment of fees as prescribed in this regulations. ✓ An application for approval to act as designated depository participant shall be made to SEBI through the depository in which the applicant is a participant and shall be accompanied by the application fee specified and shall be paid in the manner specified in the regulations. ✓ The depository shall forward to SEBI the application, as early as possible, but not later than 30 days from the date of receipt by the depository, along with its recommendations and certifying that the participant complies with the eligibility criteria as provided in these regulations. ELIGIBILITY CRITERIA OF DESIGNATED DEPOSITORY PARTICIPANT: The SEBI shall not consider an application for the grant of approval as designated depository participant unless the applicant satisfies the following conditions, namely: ✓ the applicant is a participant registered with SEBI. ✓ the applicant is a custodian of securities registered with SEBI. ✓ the applicant is an Authorized Dealer Category-1 bank authorized by RBI; ✓ the applicant has multinational presence either through its branches or through agency relationships with intermediaries regulated in their respective home jurisdictions; ✓ the applicant has systems and procedures to comply with the requirements of Financial Action Task Force Standards, Prevention of Money Laundering Act, 2002, Rules prescribed thereunder and the circulars issued from time to time by SEBI. ✓ the applicant is a fit and proper person based on the criteria specified in Schedule II of the SEBI (Intermediaries) Regulations, 2008; and ✓ any other criteria specified by SEBI from time to time. SEBI may consider an application from a global bank, regulated in its home jurisdiction, for grant of approval to act as designated depository participant, if it is satisfied that it has sufficient experience in providing custodial services and the grant of such approval is in the interest of the development of the securities market. However, such global bank shall be registered with SEBI as a participant, custodian of securities, and shall have tie up with Authorized Dealer Category-1 bank. ✓ After considering an application, SEBI may grant approval to the applicant, if it is satisfied that the applicant is eligible and fulfills the requirements including payment of fees. ✓ SEBI shall dispose of the application for grant of approval as soon as possible but not later than one month after receipt of application by SEBI or, after the information furnished, whichever is later. ✓ An application for grant of approval to act as designated depository participant which is not complete in all respects or is false or misleading in any material particular, shall be deemed to be deficient and shall be liable to be rejected by
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	SEBI after giving a reasonable opportunity to remove the deficiency, within the time as specified by SEBI. PROCEDURE WHERE APPROVAL IS NOT GRANTED: SEBI may reject the application if the applicant does not satisfied the requirements specified above after giving a reasonable opportunity of being heard and the decision of rejection shall be communicated by SEBI to the applicant in writing stating therein the grounds on which the application has been rejected. The applicant, who is aggrieved by the decision of SEBI may, within a period of thirty days from the date of receipt of communication may apply to SEBI for reconsideration of its decision. SEBI shall reconsideration the application after giving a reasonable opportunity of being heard, convey its decision in writing to the applicant. VALIDITY OF APPROVAL The approval granted by SEBI under these regulations shall be permanent unless suspended or withdrawn by SEBI or surrendered by the designated depository participant. SUSPENSION OR WITHDRAWAL OR SURRENDER OF APPROVAL: Where any designated depository participant who has been granted approval- ✓ fails to comply with any conditions subject to which an approval has been granted to him; ✓ contravenes any of the provisions of the securities laws or directions, instructions or circulars issued thereunder; SEBI may, by order suspend or withdraw such approval after providing the designated depository participant a reasonable opportunity of being heard. Any designated depository participant, who has been granted approval desirous of giving up its activity and surrendering the approval granted, may make a request for such surrender to SEBI. SEBI may impose such conditions as it deems fit for protection of investors or the clients of designated depository participants or the securities market and such person shall comply with such conditions.
INVESTMENT CONDITIONS & RESTRICTIONS	<u>INVESTMENT RESTRICTIONS:</u> ✓ A foreign portfolio investor shall invest only in the following securities, namely- ❖ Securities, debentures and warrants of companies, listed or to be listed on a recognized stock exchange in India through primary & secondary market; ❖ Units of schemes floated by domestic mutual funds, whether listed on a recognized stock exchange or not; ❖ Units of schemes floated by a collective investment scheme; ❖ Derivatives traded on a recognized stock exchange; ❖ Treasury bills and dated government securities; ❖ Commercial papers issued by an Indian company; ❖ Rupee denominated credit enhanced bonds; ❖ Security receipts issued by asset reconstruction companies; ❖ Perpetual debt instruments and debt capital instruments, as specified by the Reserve Bank of India from time to time; ❖ Listed and unlisted non-convertible debentures/bonds issued by an Indian company in the infrastructure sector, where 'infrastructure' is defined in terms of the extant External Commercial Borrowings (ECB) guidelines; ❖ Non-convertible debentures or bonds issued by Non-Banking Financial Companies categorized as 'Infrastructure Finance Companies' (IFCs) by the Reserve Bank of India; ❖ Rupee denominated bonds or units issued by infrastructure debt funds; ❖ Indian depository receipts;

- ❖ Unlisted non-convertible debentures/bonds issued by an Indian company subject to the guidelines issued by the Ministry of Corporate Affairs, Government of India from time to time;
- ❖ Securitized debt instruments, including, -(i) any certificate or instrument issued by a special purpose vehicle set up for securitization of asset/s with banks, financial institutions or non-banking financial institutions as originators; and(ii) any certificate or instrument issued and listed in terms of the Securities and Exchange Board of India (Public Offer and Listing of Securitised Debt Instruments) Regulations, 2008;
- ✓ Permit FPIs to invest in units of REITs, InvIts and Category III AIFs; and
- ✓ A FPI shall not hold more than twenty five percent stake in a category III AIF.
- ✓ Where a foreign institutional investor (FII) or a sub account, prior to commencement of these regulations, holds equity shares in a company whose shares are not listed on any recognized stock exchange, and continues to hold such shares after initial public offering and listing thereof, such shares shall be subject to lock-in for the same period, if any, as is applicable to shares held by a foreign direct investor placed in similar position, under the policy of the Government of India relating to foreign direct investment for the time being in force.

In respect of investments in the secondary market, the following additional conditions shall apply:

(a) A foreign portfolio investor shall transact in the securities in India only on the basis of taking and giving delivery of securities purchased or sold;

(b) Clause (a) shall not apply to, in case of :

- Any transactions in derivatives on a recognized stock exchange;
- Short selling transactions in accordance with the framework specified by SEBI;
- Any transaction in securities pursuant to an agreement entered into with the merchant banker in the process of market making or subscribing to unsubscribed portion of the issue in accordance with SEBI (Issue of Capital and Disclosure Requirements) Regulations, 2018;
- Any other transaction specified by SEBI.

(c) No transaction on the stock exchange shall be carried forward;

(d) The transaction of business in securities by a foreign portfolio investor shall be only through stock brokers registered by SEBI.

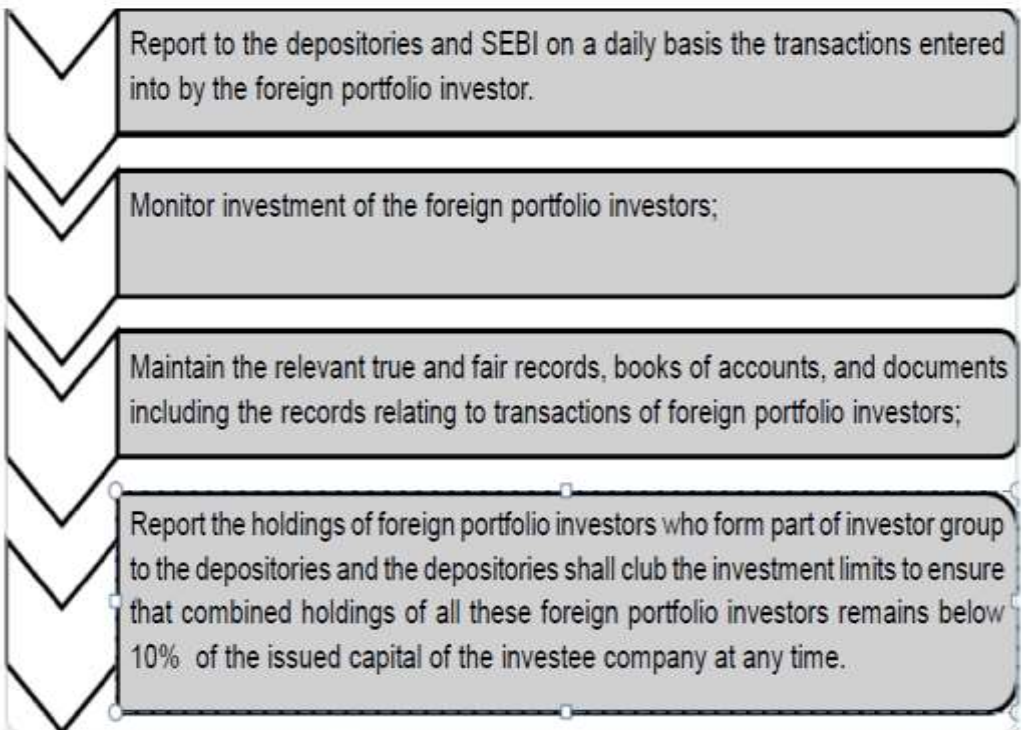
(e) Clause (d) shall not apply to, in case of :

- ❖ Transactions in Government securities and such other securities falling under the purview of the RBI.
- ❖ sale of securities in response to a letter of offer sent by an acquirer in accordance with the SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 2011;
- ❖ sale of securities in response to an offer made by any promoter or acquirer in accordance with SEBI (Delisting of Equity shares) Regulations, 2009;
- ❖ sale of securities, in accordance with SEBI (Buy-back of securities) Regulations, 1998;
- ❖ divestment of securities in response to an offer by Indian Companies in accordance with Operative Guidelines for Disinvestment of Shares by Indian Companies in the overseas market through issue of ADR or GDR as notified by the Government of India and directions issued by RBI from time to time;
- ❖ any bid for, or acquisition of, securities in response to an offer for disinvestment of shares made by the Central Government or any State Government;
- ❖ any transaction in securities pursuant to an agreement entered into with merchant banker in the process of market making or subscribing to unsubscribed portion of the issue in accordance with SEBI (Issue of Capital and Disclosure Requirements)

	Regulations, 2018; ❖ Transactions by Category I and II foreign portfolio investors, in corporate bonds, as may be specified by the Board; (ix) transactions on the electronic book provider platform of recognized stock exchanges; (f) A foreign portfolio investor shall hold, deliver or cause to be delivered securities only in dematerialized form. However, any shares held in non-dematerialized form, before the commencement of these regulations, can be held in non-dematerialized form, if such shares cannot be dematerialized. – In respect of investments in the debt securities, the foreign portfolio investors shall also comply with terms, conditions or directions, specified or issued by SEBI or RBI, from time to time, in addition to other conditions specified in these regulations. – Unless otherwise approved by SEBI, securities shall be registered in the name of the foreign portfolio investor as a beneficial owner for the purposes of the Depositories Act, 1996. – The purchase of equity shares of each company by a single foreign portfolio investor or an investor group shall be below ten percent of the total issued capital of the company. – The investment by the foreign portfolio investor shall also be subject to such other conditions and restrictions as may be specified by the Government of India from time to time. – In cases where the Government of India enters into agreements or treaties with other sovereign Governments and where such agreements or treaties specifically recognize certain entities to be distinct and separate, SEBI may, during the validity of such agreements or treaties, recognize them as such, subject to conditions as may be specified by it. – A foreign portfolio investor may lend or borrow securities in accordance with the framework specified by SEBI in this regard.
OFFSHORE DERIVATIVE INSTRUMENTS (December 2017)	✓ FPIs can issue, subscribe to or otherwise deal in ODIs, directly or indirectly, only if such ODIs are issued to persons who are regulated by an appropriate foreign regulatory authority, and the ODIs are issued after compliance with 'Know Your Client' (KYC) norms. ✓ Unregulated broad based funds which are classified as Category II FPIs by virtue of their investment manager being appropriately regulated shall not deal in ODIs. ✓ Category III FPIs also cannot deal in ODIs. ✓ Such offshore derivative instruments shall not be issued to or transferred to persons who are resident Indians or non-resident Indians and to entities that are beneficially owned by resident Indians or non-resident Indians; ✓ A foreign portfolio investor shall ensure that any transfer of offshore derivative instruments issued by or on behalf of it, is made subject to the following conditions: (a) such offshore derivative instruments are transferred to persons subject to fulfillment of sub-regulation (1); and (b) prior consent of the foreign portfolio investor is obtained for such transfer, except when the persons to whom the offshore derivative instruments are to be transferred to are pre-approved by the foreign portfolio investor ✓ Foreign portfolio investors shall fully disclose to SEBI any information concerning the terms of and parties to off-shore derivative instruments such as participatory notes, equity linked notes or any other such instruments, by whatever names they

	are called, entered into by it relating to any securities listed or proposed to be listed in any stock exchange in India. ✓ Outstanding ODIs shall be deemed to have been issued under the corresponding provision of the FPI Regulations. ✓ A foreign portfolio investor shall collect regulatory fee, as specified in Part C of the Second Schedule, from every subscriber of offshore derivative instrument issued by it and deposit the same with the Board.
KYC NORMS FOR ODI SUBSCRIBERS	ODI Issuers shall now be required to identify and verify the beneficial owners (BO) in the subscriber entities, who hold in excess of the 25 % in case of a company and 15 % in case of partnership firms/ trusts/ unincorporated bodies under Rule 9 of the Prevention of Money-laundering (Maintenance of Records) Rules, 2005. ODI issuers shall also be required to identify and verify the person(s) who control the operations, when no beneficial owner is identified based on the aforesaid materiality threshold. SEBI clarified the following in respect of ODIs: – The KYC documentation shall be obtained by ODI Issuers from each of such ODI subscribers in respect of beneficial owner who holds above the threshold limits in such ODI subscriber. – The materiality threshold referred above, to identify the beneficial owner should be first applied at the ODI subscriber level and look through principle shall be applied to identify the beneficial owner of the material shareholder/ owner entity. – Only beneficial owner with holdings equal & above the materiality thresholds in the subscriber need to be identified through the aforesaid look through principle. In such cases, identity and address proof should be obtained. – Where no material shareholder/owner entity is identified in the ODI subscriber using the materiality threshold, the identity and address proof of the relevant natural person who holds the position of senior managing official of the material shareholder/owner entity should be obtained. – Any transfer of ODIs issued by or on its behalf is carried out subject to the following conditions: a) such ODIs are transferred only to persons in accordance with this regulation and b) Prior consent of the FPI must be obtained for such transfer. The ODI issuers shall be required to maintain with them, the KYC documents as prescribed above at all times and should be made available to SEBI on demand.
OBLIGATIONS & RESPONSIBILITIES OF FPI (June 2019)	1. The foreign portfolio investor shall – ✓ comply with the provisions of these regulations, circulars and any other terms and conditions specified by SEBI from time to time; ✓ forthwith inform SEBI and designated depository participant in writing, if any information or particulars previously submitted to SEBI or designated depository participant are found to be false or misleading, in any material respect; ✓ forthwith inform SEBI and designated depository participant in writing, if there is any material change in the information including any direct or indirect change in its structure or ownership or control previously furnished by him to SEBI or designated depository participant; (Inserted w.e.f 31.12.2018) ✓ as and when required by SEBI or any other government agency in India, submit any information, record or documents in relation to its activities as a foreign portfolio investor; ✓ forthwith inform SEBI and the designated depository participant, in case of any penalty, pending litigations or proceedings, findings of inspections or investigations for which action may have been taken or is in the process of being taken by an overseas regulator against it; ✓ obtain a Permanent Account Number from the Income Tax Department;

	✓ in relation to its activities as foreign portfolio investor, at all times, subject itself to the extant Indian laws, rules, regulations and circulars issued from time to time and provide an express undertaking to this effect to the designated depository participant; ✓ be a fit and proper person based on the criteria specified in Schedule II of the Securities and Exchange Board of India (Intermediaries) Regulations, 2008; ✓ provide such declarations and undertakings as required by the designated depository participant; and ✓ provide any additional information or documents including beneficiary ownership details of their clients as may be required by the designated depository participant or the Board or any other enforcement agency to ensure compliance with the Prevention of Money Laundering Act, 2002 and the rules and regulations prescribed thereunder, the Financial Action Task Force standards and circulars issued from time to time by the Board; (Inserted w.e.f 05.04.2018) 2. In case of jointly held depository accounts, each of the joint holders shall meet the requirements specified for foreign portfolio investor and each shall be deemed to be holding a depository account as a foreign portfolio investor. 3. Multiple entities having common ownership, directly or indirectly, of more than fifty percent. or common control shall be treated as being part of the same investor group and the investment limits of all such entities shall be clubbed at the investment limit as applicable to a single foreign portfolio investor. 3A. Notwithstanding anything contained in sub-regulation (3), the clubbing of investment limit of foreign portfolio investors having common control shall not be applicable where: (i) the foreign portfolio investors are appropriately regulated public retail funds; or (ii) the foreign portfolio investors are public retail funds majority owned by appropriately regulated public retail fund on look through basis; or (iii) foreign portfolio investors are public retail funds and Investment Managers of such foreign portfolio investors are appropriately regulated. Explanation -Public retail funds means – (i) mutual funds or unit trusts which are open for subscription to retail investors and which do not have specific investor type requirements like accredited investors; (ii) insurance companies where segregated portfolio with one to one correlation with a single investor is not maintained; and (iii) pension funds. (Substituted w.e.f 31.12.2018) 4. In order to appropriately monitor investment concentration where common ownership or control is identified for such public retail funds, the Indian depositories shall maintain details of controlling entities on the basis of name, address, nationality, passport number/ any other identification card issued by Government and provide appropriate reports to the Board on a periodic basis. (Inserted w.e.f 31.12.2018) 5. In case of any direct or indirect change in structure or Common Ownership or Control of the foreign portfolio investor, it shall bring the same to the notice of its designated depository participant forthwith.
CODE OF CONDUCT	Refer Standard Code of Conduct Format Given at the end of these notes.
APPOINTMENT OF	A foreign portfolio investor or a global custodian, who is acting on behalf of the foreign

CUSTODIAN OF SECURITIES	portfolio investor, shall enter into an agreement with the designated depository participant engaged by it to act as a custodian of securities, before making any investment under these regulations. In addition to the obligation of custodian of securities under any other regulations, The custodian of securities shall:  - Report to the depositories and SEBI on a daily basis the transactions entered into by the foreign portfolio investor. - Monitor investment of the foreign portfolio investors; - Maintain the relevant true and fair records, books of accounts, and documents including the records relating to transactions of foreign portfolio investors; - Report the holdings of foreign portfolio investors who form part of investor group to the depositories and the depositories shall club the investment limits to ensure that combined holdings of all these foreign portfolio investors remains below 10% of the issued capital of the investee company at any time.
APPOINTMENT OF DESIGNATED BANK	A foreign portfolio investor shall appoint a branch of a bank authorized by the Reserve Bank of India for opening of foreign currency denominated account and special non-resident rupee account before making any investments in India.
OBLIGATION & RESPONSIBILITY OF DDP	1) All designated depository participants (DDPs) who have been granted approval by SEBI shall – (a) Comply with the provisions of these regulations, circulars and any other terms and conditions specified by SEBI from time to time; (b) Forthwith inform SEBI in writing, if any information or particulars previously submitted to SEBI are found to be false or misleading, in any material respect; (c) Forthwith inform SEBI in writing, if there is any material change in the information previously furnished by him to SEBI. (d) Furnish such information, record or documents to SEBI and RBI, as may be required, in relation to his activities as a DDP. (e) Ensure that only registered foreign portfolio investors are allowed to invest in securities market. (f) Ensure that foreign portfolio investor does not have opaque structure(s). Explanation 1. -For the purposes of this clause, "opaque structure" shall mean any structure such as (i) protected cell company, segregated cell company or equivalent, where the details of the ultimate beneficial owners are not accessible or where the beneficial owners are ring fenced from each other or where the beneficial owners are ring fenced with regard to enforcement, or (ii) where applicant or its investor(s) identified on basis of threshold for identification of beneficial owner have issued any bearer shares or maintain any

outstanding bearer shares.

Provided that the foreign portfolio investor satisfying the following criteria **shall not be treated as having opaque structure**:

- (i) the applicant is regulated in its home jurisdiction;
- (ii) each fund or sub fund in the applicant satisfies broad based criteria;
- (iii) the applicant gives an undertaking to provide information regarding its beneficial owners as and when Board seeks this information; and
- (iv) the applicant submits an undertaking that it does not maintain any outstanding bearer shares and it would not issue bearer shares in future.

Explanation 2. -The phrase “ultimate beneficial owner” shall have the same meaning assigned to the term “beneficial owner” as defined under the Prevention of Money Laundering Act, 2002.

(Substituted w.e.f 31.12.2018)

However, the foreign portfolio investor satisfying the following criteria shall not be treated as having opaque structure:

- The applicant is regulated in its home jurisdiction
- Each fund or sub fund in the applicant satisfies broad based criteria, and
- The applicant gives an undertaking to provide information regarding its beneficial owners as and when Board seeks this information.

- (g) have adequate systems to ensure that in case of jointly held depository accounts, each of the joint holders meet the requirements specified for foreign portfolio investors and shall perform KYC due diligence for each of the joint holders;
- (h) in case of any penalty, pending litigations or proceedings, findings of inspections or investigations for which action may have been taken or is in the process of being taken by any regulator against a DDP, the DDP shall bring such information forthwith, to the attention of SEBI, depositories and stock exchanges;
- (i) be guided by the relevant circular on Anti-Money Laundering or Combating the Financing of Terrorism specified by SEBI from time to time.

2) The designated depository participant engaged by an applicant seeking registration as foreign portfolio investor shall:-

- (a) ascertain at the time of granting registration and whenever applicable, whether the applicant forms part of any investor group;
- (b) open a dematerialized account for the applicant only after ensuring compliance with all the requirements under Prevention of Money Laundering Act, 2002 and rules and regulations prescribed thereunder, Financial Action Task Force standards and circulars issued by SEBI in this regard, from time to time and shall also ensure that foreign portfolio investors comply with all these requirements on an on going basis;
- (c) carry out necessary due diligence and obtain appropriate declarations and undertakings from applicant to ensure that no other depository account is held by any of the concerned applicant as a foreign portfolio investor or as a non-resident Indian, before opening a depository account;
- (d) ensure that Securities held by foreign portfolio investors are free from all encumbrances;

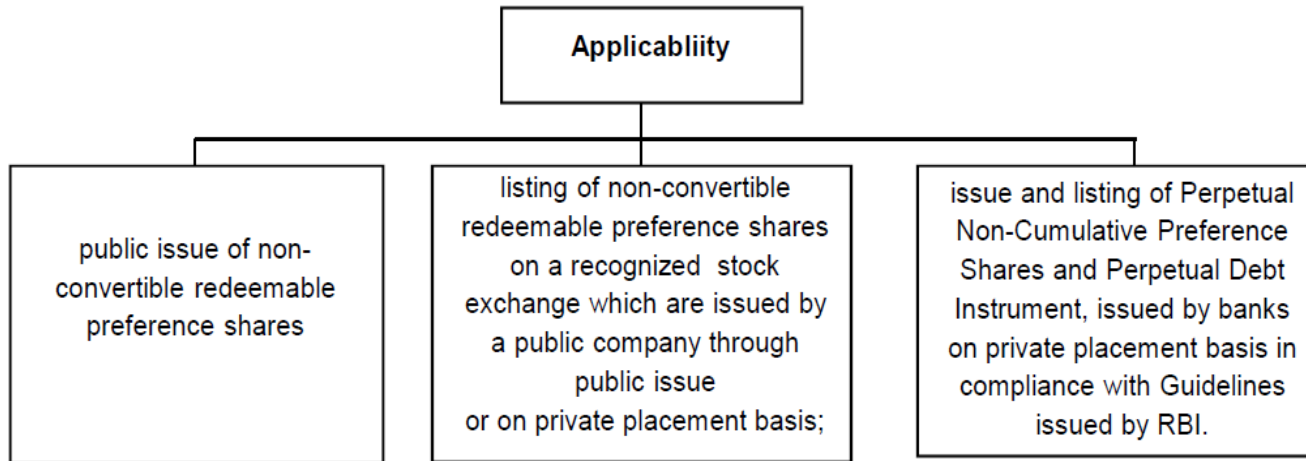
Explanation. -An encumbrance created to meet any statutory and regulatory requirements shall not be considered under this clause.

- (e) collect and remit fees to SEBI, in the manner as specified in Part A of Second Schedule; and
- (f) in case of change in structure or constitution or direct or indirect change in Common Ownership or Control reported by the foreign portfolio investor, re-assess the eligibility of such foreign portfolio investor.

OBLIGATION OF DDP INSPECTION	❖ It shall be the duty of the designated depository participants whose affairs are being inspected, and of every director, officer and employee thereof :- – to produce such books, securities, accounts, records and other documents in its custody or control to the inspecting officer and – furnish such statements and information relating to its activities, as the inspecting officer may require, within such reasonable period as the inspecting officer may specify. ❖ The designated depository participants shall allow – the inspecting officer to have reasonable access to the premises occupied by such designated depository participant or by any other person on its behalf and – also extend reasonable facility for examining any books, records, documents and computer data in the possession of the designated depository participants or such other person and – provide copies of documents or other materials which in the opinion of the inspecting officer are relevant for the purposes of the inspection. – The inspecting officer, in the course of inspection, shall be entitled to examine or to record the statements of any director, officer or employee of the designated depository participants. – It shall be the duty of every director, officer or employee of the designated depository participants to give to the inspecting officer all assistance in connection with the inspection, which the inspecting officer may reasonably require.
SUBMISSION OF REPORT TO SEBI	The inspecting officer shall, as soon as possible, on completion of the inspection or investigation as the case may be, submit a report to SEBI and if directed to do so by SEBI, he may submit interim report(s). SEBI shall after consideration of inspection report take such action as SEBI may deem fit and appropriate including action under Chapter V of the SEBI (Intermediaries) Regulations, 2008.

UNIT 13: NON-CONVERTIBLE REDEEMABLE PREFERENCE SHARES

SEBI issued (Issue and Listing of Non-Convertible Redeemable Preference Shares) Regulations, 2013 pertaining to Issue and Listing of Non-Convertible Redeemable Preference Shares which are not convertible, either in whole or part into equity instruments. They provide for a rationalized disclosure requirements and a reduction of certain onerous obligations erstwhile attached to an issue of Non-Convertible Redeemable Preference securities.



ISSUE OF NCRPS: CONDITIONS

1. The company shall not make any public issue of non-convertible redeemable preference shares if as on the date of filing of draft offer document or final offer document as provided :-
 - the company or the person in control of the company or its promoter or its director is restrained or prohibited or debarred by SEBI from accessing the securities market or dealing in securities; or
 - the company or any of its promoters or directors is a wilful defaulter or it is in default of payment of interest or repayment of principal amount in respect of non-convertible redeemable preference shares issued by it to the public, if any, for a period of more than 6 months.
2. It has made an application to one or more recognized stock exchanges for listing of such securities therein. If the application is made to more than one recognized stock exchanges, the issuer must choose one of them which has nationwide trading terminals as the designated stock exchange.
3. It has obtained in-principle approval for listing of its non-convertible redeemable preference shares.
4. Credit rating including the unaccepted ratings obtained from more than one credit rating agencies, registered with SEBI shall be disclosed in the offer document.
5. The minimum tenure of the non-convertible redeemable preference shares shall not be less than three years.
6. The issue has been assigned a rating of not less than “AA-” or equivalent by a credit rating agency registered with SEBI.
7. The Company shall create a capital redemption reserve in accordance with the provisions of the Companies Act, 2013.
8. The issuer shall not issue non-convertible redeemable preference shares for providing loan to or acquisition of shares of any person who is part of the same group or who is under the same management, other than to subsidiaries of the issuer.

June 2019 exams: “A company cannot make public issue of non-convertible

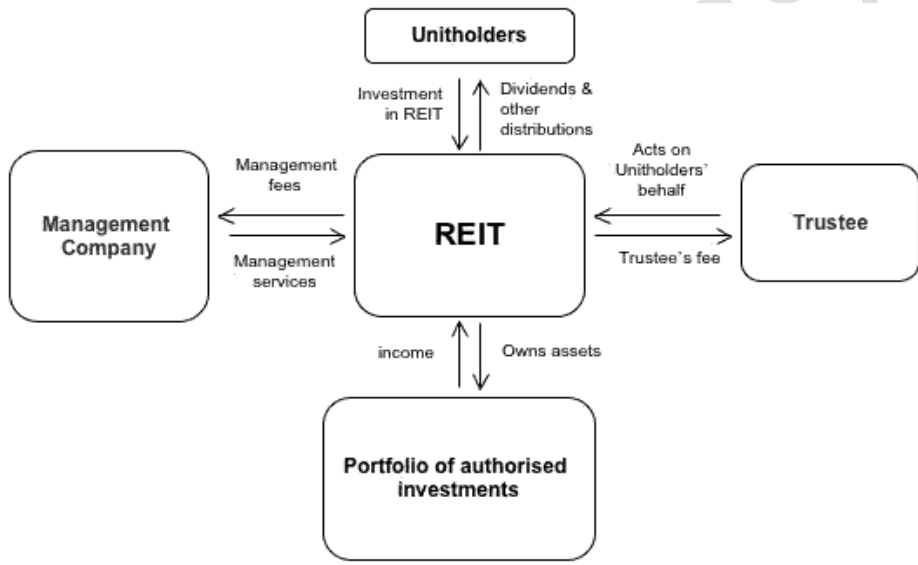
	redeemable preference shares unless certain conditions are fulfilled". Elaborate.
APPOINTMENT OF INTERMEDIARIES	1. It shall enter into an arrangement with a depository registered with SEBI for dematerialization of the non-convertible redeemable preference shares in accordance with the Depositories Act, 1996 and regulations made there under. 2. In case of public issue of non-convertible redeemable preference shares, the Company shall appoint one or more merchant bankers registered with SEBI at least one of whom shall be a lead merchant banker.
DISCLOSURES OF MATERIAL INFORMATION	1. The offer document must contain all material disclosures which are necessary for the subscribers of the nonconvertible redeemable preference shares to take an informed investment decision. The offer document contains the following: (a) the disclosures specified in Section 26 of the Companies Act, 2013; (b) disclosure specified in Schedule I of these regulations; (c) additional disclosures as may be specified by SEBI 2. The amount of minimum subscription which the issuer seeks to raise and underwriting arrangements shall be disclosed in the offer document.
FILING	The company shall file draft offer document with the designated stock exchange through the lead merchant banker and also forwarded a copy of draft and final offer document to SEBI for its records, along with fees as specified in regulation.
RESPONSIBILITIES OF MERCHANT BANKER	The lead merchant banker must ensure that – – The lead merchant banker shall ensure that the draft offer document clearly specifies the names and contact particulars of the compliance officer of the lead merchant banker and the issuer including the postal and email address, telephone and fax numbers. – All comments received on the draft offer document are suitably addressed and shall also furnish to SEBI a due diligence certificate as per these regulations prior to the filing of the offer document with the Registrar of Companies.
ADVERTISEMENTS	❖ The Company should make an advertisement in one English national daily newspaper and one Hindi national daily newspaper with wide circulation on or before the issue opening date and such advertisement, amongst other things must contain the disclosures specified in these regulations. ❖ A Company should not issue an advertisement – – which is misleading in material particular or which contains any information in a distorted manner or which is manipulative or deceptive or extraneous matters. – which contain a statement, promise or forecast which is untrue or misleading and the advertisement shall be truthful, fair and clear. – during the subscription period any reference to the issue of non-convertible redeemable preference shares or be used for solicitation. ❖ The advertisement shall urge the investors to invest only on the basis of information contained in the offer document.
ABRIDGED PROSPECTUS & APPLICATION FORMS	The issuer and lead merchant bankers shall ensure that: a) every application form issued by the issuer is accompanied by a copy of the abridged prospectus; b) the abridged prospectus shall not contain matters which are extraneous to the contents of the prospectus; c) adequate space shall be provided in the application form to enable the investors to fill in various details.

ONLINE ISSUANCES	A Company proposing to issue of non-convertible redeemable preference shares to the public through the online system of the designated stock exchange shall comply with the relevant applicable requirements as may be specified by SEBI.
ISSUE PRICE	A Company may determine the price of non-convertible redeemable preference shares in consultation with the lead merchant banker and the issue may be at fixed price or the price may be determined through book building process in accordance with the procedure as may be specified by SEBI.
MINIMUM SUBSCRIPTION	The Company may decide the amount of minimum subscription which it seeks to raise by public issue of nonconvertible redeemable preference shares in accordance with the provisions of Companies Act, 2013 and disclose the same in the offer document. In the event of non-receipt of minimum subscription, all application moneys received in the public issue shall be refunded forthwith to the applicants. In the event the application monies are refunded beyond 8 days from the last day of the offer, then such amounts shall be refunded together with interest at such rate as may be set out in the offer document which shall not be less than 15% per annum.
OPTIONAL UNDERWRITING	A public issue of non-convertible redeemable preference shares may be underwritten by an underwriter registered with SEBI and in such a case adequate disclosures regarding underwriting arrangements shall be made in the offer document.
PROHIBITION OF MISSTATEMENT IN THE OFFER DOCUMENT	– The offer document shall not omit disclosure of any material fact which may make the statements made therein, in light of the circumstances under which they are made, misleading. – The offer document or abridged prospectus or any advertisement issued by an issuer in connection with a public issue of non-convertible redeemable preference shares shall not contain any false or misleading statement.
MANDATORY LISTING	– A Company desirous of making an offer of non-convertible redeemable preference shares to public shall make an application for listing to one or more recognized stock exchanges in terms of section 40 of the Companies Act, 2013. – It must comply with conditions of listing of such non-convertible redeemable preference shares as specified in the Listing Agreement with the stock exchange where such non-convertible redeemable preference shares are sought to be listed. – Where the Company has disclosed the intention to seek listing of non-convertible redeemable preference shares issued on private placement basis, it shall forward the listing application along with the disclosures specified in Schedule I to these regulation to the recognized stock exchange within fifteen days from the date of allotment of such non-convertible redeemable preference shares.
LISTING AGREEMENT	Every issuer desirous of listing its non-convertible redeemable preference shares, or perpetual non-cumulative preference shares or innovative perpetual debt instruments on a recognized stock exchange, shall execute an agreement with such stock exchange. Every issuer who has previously entered into agreements with a recognized stock exchange to list non-convertible redeemable preference shares, or perpetual non-cumulative preference shares or innovative perpetual debt instruments shall execute a fresh listing agreement with such stock exchange within 6 months of the date of notification of SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015.

SECURITY DEPOSIT (This Clause 16B Omitted w.e.f 09.10.2018)	The issuer shall deposit, before the opening of subscription list, and keep deposited with the stock exchange(s) an amount calculated at the rate of 1% of the amount of securities offered for subscription to the public. The amount stipulated in above shall be deposited and refundable or forfeitable in the manner specified by SEBI.
CONDITIONS FOR PRIVATE PLACEMENT	1. An issuer may list its non-convertible redeemable preference shares issued on private placement basis on a recognized stock exchange subject to the following conditions: ✓ In compliance with the provisions of the Companies Act, 2013, rules prescribed thereunder and other applicable laws; ✓ Credit rating has been obtained from at least one credit rating agency registered with SEBI. ✓ Should be in dematerialized form; ✓ The disclosures as provided in regulation have been made; ✓ The minimum application size for each investor is not less than 2 lakh rupees; and ✓ Where the application is made to more than one recognized stock exchange, the issuer shall choose one of them as the designated stock exchange. 2. The issuer shall comply with conditions of listing of such non-convertible redeemable preference shares as specified in the Listing Agreement with the stock exchange where such non-convertible redeemable preference shares are sought to be listed. 3. The issuer making a private placement of non-convertible redeemable preference shares and seeking listing thereof on a recognized stock exchange shall make disclosures as specified in Schedule I of these regulations accompanied by the latest Annual Report of the issuer. 4. The disclosures as provided above shall be made on the websites of stock exchanges where such securities are proposed to be listed and shall be available for download in PDF / HTML formats.
LISTING & TRADING OF NCRPS	CONTINUOUS LISTING: All the issuers making public issues of non-convertible redeemable preference shares or seeking listing of nonconvertible redeemable preference shares issued on private placement basis shall comply with the conditions of listing specified in the respective listing agreement for non-convertible redeemable preference shares. The issuer and stock exchanges shall disseminate all information and reports on non-convertible redeemable preference shares including compliance reports filed by the issuers regarding the non-convertible redeemable preference shares to the investors and the general public by placing them on their websites. TRADING: 1. The non-convertible redeemable preference shares issued to the public or on a private placement basis, which are listed in recognized stock exchanges, shall be traded and such trades shall be cleared and settled in recognized stock exchanges it should satisfy the conditions specified by SEBI. 2. In case of trades of non-convertible redeemable preference shares which have been made over the counter, such trades shall be reported on a recognized stock exchange having a nation-wide trading terminal or such other platform as may be specified by SEBI. 3. SEBI may specify conditions for reporting of trades on the recognized stock exchange or other platform.

OBLIGATIONS OF ISSUE, LEAD MERCHANT BANKER, ETC	1. The issuer shall disclose all the material facts in the offer documents issued or distributed to the public and shall ensure that all the disclosures made in the offer document are true, fair and adequate and there is no mis-leading or untrue statements or mis-statement in the offer document. 2. The Merchant Banker shall verify and confirm that the disclosures made in the offer documents are true, fair and adequate and ensure that the issuer is in compliance with these regulations as well as all transaction specific disclosures required as per Companies Act, 2013. 3. The issuer shall treat the applicants in a public issue of non-convertible redeemable preference shares in a fair and equitable manner as per the procedures as may be specified by SEBI. 4. The intermediaries shall be responsible for the due diligence in respect of assignments undertaken by them in respect of issue, offer and distribution of securities to the public. 5. No person shall employ any device, scheme or artifice to defraud in connection with issue or subscription or distribution of non-convertible redeemable preference shares which are listed or proposed to be listed on a recognized stock exchange.
ISSUANCE AND LISTING OF NON- EQUITY REGULATORY CAPITAL INSTRUMENTS BY BANKS	The provisions of these regulations shall also, apply to the issuance and listing of Perpetual Non-Cumulative Preference Shares and Innovative Perpetual Debt Instruments by banks. Only a bank may issue such instruments subject to the prior approval and in compliance with the Guidelines issued by RBI. If a bank is incorporated as a company under Companies Act, 2013, it shall, in addition, comply with the provisions of Companies Act, 2013 and/or other applicable statutes. The bank shall comply with the terms and conditions as may be specified by SEBI from time to time and shall make adequate disclosures in the offer document regarding the features of these instruments and relevant risk factors and if such instruments are listed, shall comply with the listing requirements.

UNIT 14: REAL ESTATE INVESTMENT TRUSTS
SEBI (Real Estate Investment Trust) Regulations, 2014

INTRODUCTION	The Securities and Exchange Board of India (SEBI) notified the Real Estate Investment Trusts (REITs) Regulations on 26 September 2014, thereby paving the way for introduction of an internationally acclaimed investment structure in India. The Finance Minister has also made necessary amendments to the Indian taxation regime to provide the tax pass through status, which is one of the key requirements for feasibility of REITs. The Real estate Investment Trusts (REITs) Regulations, 2014, provide a positive push to the Indian Capital Markets and Real Estate & Infrastructure sectors. It also create liquidity to some extent for Real Estate and Infrastructure players. Further, it would provide investors an opportunity to invest in Indian stabilized assets through an Indian listed platform.  <pre> graph TD Unitholders[Unitholders] -- "Investment in REIT" --> REIT[REIT] REIT -- "Dividends & other distributions" --> Unitholders ManagementCompany[Management Company] -- "Management fees" --> REIT REIT -- "Management services" --> ManagementCompany REIT -- "Acts on Unitholders' behalf" --> Trustee[Trustee] Trustee -- "Trustee's fee" --> REIT REIT -- "income" --> Portfolio[Portfolio of authorised investments] Portfolio -- "Owns assets" --> REIT </pre>
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SEBI (REAL ESTATE INVESTMENT TRUST) REGULATIONS, 2014

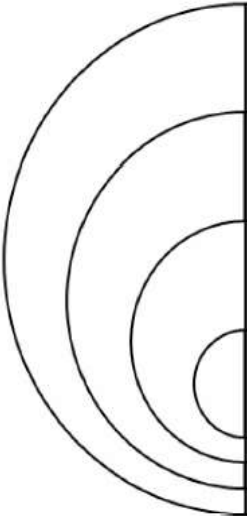
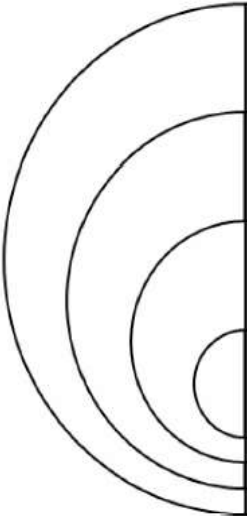
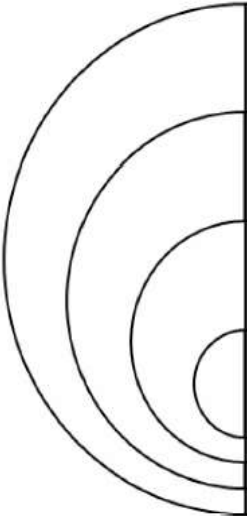
DEFINITIONS	“Sponsor Group” – includes: (i) the sponsor(s); (ii) in case the sponsor is a body corporate: a. entities or person(s) which are controlled by such body corporate; b. entities or person(s) who control such body corporate; c. entities or person(s) which are controlled by person(s) as referred at clause b. (iii) in case sponsor is an individual: a. an immediate relative of such individual (i.e., any spouse of that person, or any parent, brother, sister or child of the person or of the spouse); and b. entities or person(s) which are controlled by such individual; “Associate” of any person shall be as defined under the Companies Act, 2013 or under the applicable accounting standards and shall also include following:- i. Any person controlled, directly or indirectly, by the said person; ii. Any person who controls, directly or indirectly, the said person; iii. Where the said person is a company or a body corporate, any person(s) who is designated as promoter(s) of the company or body corporate and any other company or body corporate with the same promoter(s); iv. Where the said person is an individual, any relative of the individual;
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REGISTRATION OF REIT	Any person shall not act as a REIT unless it is registered with SEBI under these regulations. An application for grant of certificate of registration as REIT shall be made, by the sponsor in such form and on such fees as prescribed in these regulations. SEBI may, in order to protect the interests of investors, appoint any person to take charge of records, documents of the applicant and for this purpose, also determine the terms and conditions of such an appointment. SEBI shall take into account requirements as prescribed in these regulations for the purpose of considering grant of registration.
ELIGIBILITY CRITERIA (Dec 2016) (Important)	For the purpose of the grant of certificate to an applicant, SEBI shall consider all matters relevant to the activities as a REIT. Without prejudice to the generality of the foregoing provision, SEBI shall consider the following, namely, - (a) APPLICANT: • Applicant is the Sponsor on behalf of Trust and • the Trust deed must be duly registered in India under the provisions of the Registration Act, 1908 • Containing the main objective as undertaking activity of REIT in accordance with the set Regulations. (b) SPONSOR: • There are not more than 3 sponsors, • each holding or proposing to hold not less than 5% of the number of units of the REIT on post-initial offer basis. • each sponsor and sponsor group shall be clearly identified in the application of registration to the Board and in the offer document/placement memorandum, as applicable (Provided that, for each sponsor group not less than one person shall be identified as a sponsor) • The sponsor must have a net worth of at least Rs. 100 Crores on a collective basis and • have not less than 5 years' experience in the real estate industry on an individual basis. (c) MANAGER: • It must have net worth of not less than Rs. 10 crores if manager is a body corporate or company or Net Tangible Assets of value not less than 10 Crores in case Manager is a LLP; • Manager or its Associate has not less than 5 years of experience in fund management/ advisory services/ property management in the real estate industry or in development of real estate; and • Manager has not less than 2 key personnel who each have not less than 5 years of experience in fund management/ advisory services/ property management in the real estate industry or in development of real estate. • the manager has not less than half, of its directors in the case of a company or of members of the governing Board in case of an LLP, as independent and not directors or members of the governing Board of another REIT; and • the manager has entered into an investment management agreement with the trustee which provides for the responsibilities of the manager in accordance with regulation 10; (d) TRUSTEE: It should be registered with SEBI under SEBI (Debenture Trustees) Regulations, 1993; not an associate of the sponsor/ manager/ principal valuer and the trustee has such wherewithal with respect to infrastructure, personnel, etc. to the satisfaction of SEBI and in accordance with circulars or guidelines as may be specified

	by SEBI; (e) The unit holder of the REIT shall not enjoys Superior voting or any other rights over a other unit holder; (f) There are no multiple classes of units of REIT; (g) The applicant has clearly described details related to proposed activities at the time of application for registration. (h) The applicant and parties to the REIT are fit and proper persons based on the criteria as specified in SEBI (Intermediaries) Regulations, 2008; (i) Whether any previous application for grant of certificate by the REIT or the parties to the REIT or their directors/members of governing board has been rejected by SEBI. (j) Whether any previous application for grant of certificate by the REIT or the parties to the REIT or their directors/members of governing board has been rejected by SEBI.
RIGHTS & RESPONSIBILITES OF TRUSTEE	❖ The trustee shall hold the REIT assets in the name of the REIT for the benefit of the unit holders in accordance with the trust deed and these regulations. ❖ The trustee shall enter into an investment management agreement with the investment manager on behalf of the REIT. ❖ The trustee shall oversee activities of the investment manager in the interest of the unit holders, ensure that the investment manager shall complies its rights and responsibilities with these regulation and shall obtain compliance certificate from the investment manager, in the form as may be specified, on a quarterly basis. ❖ The trustee shall ensure that the investment manager complies with reporting and disclosures requirements in accordance with these regulations and in case of any delay or discrepancy, require the investment manager to rectify the same on an urgent basis. ❖ The trustee shall review the transactions carried out between the investment manager and its associates and where the investment manager has advised that there may be a conflict of interest, shall obtain confirmation from a practicing chartered accountant or valuer as applicable that such transaction is on arm's length basis. ❖ The trustee shall periodically review the status of unit holders' complaints and their Redressal undertaken by the investment manager. ❖ The trustee shall make distributions and ensure that investment manager makes timely declaration of distributions to the unit holders in accordance with Investment conditions and dividend policy as specified in these regulation. ❖ The trustee may require the investment manager to set up such systems and procedures and submit such reports to the trustees, as may be necessary for effective monitoring of the functioning of the REIT. ❖ The trustee shall ensure that subscription amount is kept in a separate bank account in name of the REIT and is only utilized for adjustment against allotment of units or refund of money to the applicants till the time such units are listed. ❖ The trustee shall ensure that the remuneration of the valuer is not be linked to or based on the value of the assets being valued. ❖ The trustee shall ensure that the investment manager convenes meetings of the unit holders in accordance with these regulations and oversee the voting by unit holders. ❖ The trustee shall ensure that the investment manager convenes meetings of unit holders not less than once every year and the period between such meetings shall not exceed fifteen months. ❖ The trustee shall immediately inform SEBI in case any act which is detrimental

	to the interest of the unit holders is noted. ❖ The trustee or its associates shall not invest in units of the REIT in which it is designated as the trustee. ❖ The trustee shall ensure that the activity of the REIT is being operated in accordance with the provisions of the trust deed, these regulations, the offer document and if any discrepancy is noticed, shall inform the same to the Board immediately in writing. ❖ The trustee shall immediately inform to the Board in case any act which is detrimental to the interest of the unit holders is noted.
RIGHTS & RESPONSIBILITIES OF INVESTMENT MANAGER	✓ Make the investment decisions with respect to the underlying assets or projects of the REIT including any further investment or divestment of the assets. ✓ The manager shall ensure that the real estate assets of the REIT or [holdco and/or] SPV have proper legal and marketable titles and that all the material contracts including rental or lease agreements entered into on behalf of REITs or [holdco and/or] SPV are legal, valid, binding and enforceable by and on behalf of the REIT or [holdco and/or] SPV. ✓ Ensure that the investments made by the REIT are in accordance with the investment conditions specified and in accordance with the investment strategy of the REIT. ✓ in consultation with trustee, appoint the valuer(s), auditor, registrar and transfer agent, merchant banker, custodian and any other intermediary or service provider or agent as may be applicable with respect to activities pertaining to the REIT in a timely manner and in accordance with these regulations. ✓ Appoint an auditor for a period of not more than five consecutive years. However, the auditor, not being an individual, may be reappointed for a period of another five consecutive years, subject to approval of unit-holders in the annual meeting in accordance with these regulations. (ROTATION) ✓ Arrange for adequate insurance coverage for the assets of the REIT. ✓ Ensure that it has adequate infrastructure and sufficient key personnel with adequate experience and qualification to undertake management of the REIT at all times. ✓ Declare distributions to the unit holders in accordance with these regulations. ✓ Ensure adequate and timely redressal of all unit holders' grievances pertaining to activities of the REIT. ✓ Ensure that the valuation of the REIT assets is done by the valuer(s) in accordance with these regulations. ✓ Ensure that the disclosures or reporting to the unit holders, SEBI, trustees and designated stock exchanges, are in accordance with these regulations and guidelines or circulars issued hereunder. ✓ Provide to SEBI and to the designated stock exchanges, where applicable, any such information as may be sought by SEBI or the designated stock exchanges pertaining to the activities of the REIT. ✓ Appoint a custodian in order to provide such custodial services as may be authorised by the trustees. ✓ Convene meetings of the unit holders and maintain records pertaining to the meetings in accordance with these regulations ✓ Ensure that all activities of the intermediaries or agents or service providers appointed by the investment manager are in accordance with these regulations and guidelines or circulars issued hereunder.
RIGHTS & RESPONSIBILITIES OF SPONSOR AND SPONSOR GROUPS (December 2018)	➤ The sponsor(s) or Sponsor Group shall set up the REIT and appoint the trustees of the REIT. ➤ The sponsor(s) shall transfer or undertake to transfer to the REIT, its entire shareholding or interest in the Holding Company and/or SPV or ownership of the infrastructure projects, subject to a binding agreement and adequate disclosures in the offer document or placement memorandum, prior to allotment of units of the REIT.

	➤ With respect to holding of units in the REIT, the sponsor(s) together shall hold not less than 25% of the total units of the REIT after initial offer of units, on a post-issue basis: ○ Provided that the minimum sponsor(s) and sponsor group(s) holding specified in this clause shall be held for a period of at least three years from the date of listing of such units; ○ Provided further that any holding of the sponsor (s) and sponsor group(s) exceeding the minimum holding as specified in this clause, shall be held for a period of at least one year from the date of listing of such units; ➤ The sponsor(s) and sponsor group(s)] together hold not less than fifteen per cent. of the outstanding units of the listed REIT at all times; ➤ Each of the sponsor individually [shall] hold not less than five per cent. of the outstanding units of the listed REIT at all times; ➤ If the sponsor(s) [and sponsor group(s)] propose(s) to sell its units below the limit specified in clauses (b) or (c) of sub-regulation (3) of this regulation- (a) such units shall be sold only after a period of three years from the date of listing of the units; (b) prior to sale of such units, the sponsor(s) 66[and sponsor group(s)] shall arrange for another person(s) or entity(ies) to act as the re-designated sponsor(s) where the re-designated sponsor shall satisfy the eligibility norms for the sponsor as specified under [regulation 4]: Provided that such units may also be sold to an existing sponsor; (c) The proposed redesignated sponsor shall obtain approval from the unit holders or provide option to exit to the unit holders in accordance with guidelines as may be specified: Provided that this clause shall not apply where the units are proposed to be sold to an existing sponsor [or member of sponsor group].
RIGHTS & RESPONSIBILITIES OF VALUER & AUDITOR	The valuers shall comply with the following conditions at all times,– ✓ the valuer shall ensure that the valuation of the REIT assets is impartial, true and fair in accordance with these regulations. ✓ the valuer shall ensure adequate and robust internal controls to ensure the integrity of its valuation reports; ✓ the valuer shall ensure that it has sufficient key personnel with adequate experience and qualification to perform valuations; ✓ the valuer shall ensure that it has sufficient financial resources to enable it to conduct its business effectively and meet its liabilities; ✓ the valuer and any of its employees involved in valuing of the assets of the REIT, shall not,– (a) invest in units of the REIT or in the assets being valued; and (b) sell the assets or units of REIT held prior to being appointed as the valuer, till the time such person is designated as valuer of such REIT and not less than six months after ceasing to be valuer of the REIT; ✓ the valuer shall conduct valuation of the REIT assets with transparency and fairness and shall render, at all times, high standards of service, exercise due diligence, ensure proper care and exercise independent professional judgment; ✓ the valuer shall act with independence, objectivity and impartiality in performing the valuation; ✓ the valuer shall discharge its duties towards the REIT in an efficient and competent manner, utilizing its knowledge, skills and experience in best possible way to complete given assignment; ✓ the valuer shall not accept remuneration, in any form, for performing a valuation of the REIT assets from any person other than the REIT or its authorized representative;

	✓ the valuer shall before accepting any assignment, disclose to the REIT any direct or indirect consideration which the valuer may have in respect of such assignment; ✓ the valuer shall disclose to the REIT any pending business transactions, contracts under negotiation and other arrangements with the investment manager or any other party whom the REIT is contracting with and any other factors that may interfere with the valuer's ability to give an independent and professional valuation of the assets; ✓ the valuer shall not make false, misleading or exaggerated claims in order to secure assignments; ✓ the valuer shall not provide misleading valuation, either by providing incorrect information or by withholding relevant information; ✓ the valuer shall not accept an assignment which interferes with its ability to do fair valuation; ✓ the valuer shall, prior to performing a valuation, acquaint itself with all laws or regulations relevant to such valuation. The auditor shall comply with the following conditions at all times,– • the auditor shall conduct audit of the accounts of the REIT and draft the audit report based on the accounts examined by him and after taking into account the relevant accounting and auditing standards, as may be specified by SEBI; • the auditor shall, to the best of his information and knowledge, ensure that the accounts and financial statements give a true and fair view of the state of the affairs of the REIT, including profit or loss and cash flow for the period and such other matters as may be specified; • the auditor shall have a right of access at all times to the books of accounts and vouchers pertaining to activities of the REIT; • the auditor shall have a right to require such information and explanation pertaining to activities of the REIT as he may consider necessary for the performance of his duties as audit or from the employees of REIT or parties to the REIT or SPV or any other person in possession of such information.							
LISTING & ALLOTMENT OF UNITS	1. A REIT shall make an initial offer of its units by way of public issue only. 2. No initial offer of units by the REIT shall be made unless,- <table border="1" data-bbox="386 1247 1421 1759"> <tr> <td data-bbox="386 1247 630 1360" rowspan="4">  </td><td data-bbox="630 1247 1421 1360">the REIT shall be registered with SEBI under SEBI (Real Estate Investment Trusts) Regulations, 2014</td></tr> <tr> <td data-bbox="630 1360 1421 1465">the value of all the assets owned by REIT is not less than 500 crore rupees;</td></tr> <tr> <td data-bbox="630 1465 1421 1577">the units proposed to be offered to the public is not less than 25% of the total of the outstanding units of the REIT and the units being offered by way of the offer document.</td></tr> <tr> <td data-bbox="630 1577 1421 1682">the offer size is not less than 250 crore rupees.</td></tr> <tr> <td data-bbox="386 1682 630 1759"></td><td data-bbox="630 1682 1421 1759"></td></tr> </table> <i>Note:-</i> (i) In case of initial offer of value greater than 500 crore rupees, if prior to the initial offer units of the REIT are held by the public, the units proposed to be offered to the public shall be calculated after reducing such existing units for satisfying the		the REIT shall be registered with SEBI under SEBI (Real Estate Investment Trusts) Regulations, 2014	the value of all the assets owned by REIT is not less than 500 crore rupees;	the units proposed to be offered to the public is not less than 25% of the total of the outstanding units of the REIT and the units being offered by way of the offer document.	the offer size is not less than 250 crore rupees.		
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	the units proposed to be offered to the public is not less than 25% of the total of the outstanding units of the REIT and the units being offered by way of the offer document.							
	the offer size is not less than 250 crore rupees.							

aforesaid percentage requirement.

(ii) the requirement of ownership of assets and size of REIT may be complied with after initial offer subject to a binding agreement with the relevant party(ies) that the requirements shall be fulfilled prior to allotment of units, a declaration to SEBI and the designated stock exchanges to that effect and adequate disclosures in this regard in the initial offer document.

3. Any subsequent issue of units by the REIT may be by way of follow-on offer, preferential allotment, qualified institutional placement, rights issue, bonus issue, offer for sale or any other mechanism and in the manner as may be specified by SEBI.

4. REIT, through the manager, shall file a draft offer document with the designated stock exchange(s) and SEBI, not less than 21 working days before filing the final offer document with the designated stock exchange.

5. The draft offer document filed with SEBI shall be made public, for comments, to be submitted to SEBI, within a period of at least 10 days, by hosting it on the websites of SEBI, designated stock exchanges and merchant bankers associated with the issue.

6. The draft and final offer document shall be accompanied by a **due diligence certificate** signed by the Manager and lead merchant banker.

7. SEBI may communicate its comments to the lead merchant banker and, in the interest of investors, may require the lead merchant banker to carry out such modifications in the draft offer document as it deems fit.

8. The lead merchant banker shall ensure that **all comments received** from SEBI on the draft offer document **are suitably taken into account** prior to the filing of the offer document with the designated stock exchanges.

9. In case no modifications are suggested by SEBI in the draft offer document within 21 working days, then REIT may issue the final offer document or follow-on offer document to the public after filed with the designated stock exchange.

10. The final offer document shall be **filed with the designated stock exchanges and SEBI** not less than 5 working days before opening of the offer.

11. The initial offer or follow-on offer shall be made by the REIT within a period of not more than six months from the date of last issuance of observations by SEBI, if any or if no observations have been issued by SEBI, within a period of not more than six months from the date of filing of offer document with the designated stock exchanges.

However, if the initial offer or follow-on offer is not made within the specified time period, a fresh offer document shall be filed.

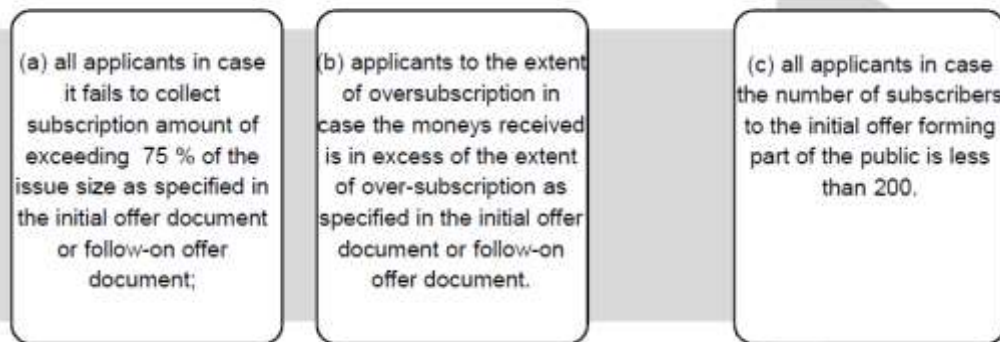
12. The REIT may invite for subscriptions and allot units to any person, whether resident or foreign. In case of foreign investors, such investment shall be subject to guidelines as may be specified by RBI and the government from time to time.

13. The application for subscription shall be **accompanied by a statement containing the abridged version of the offer document**, detailing the risk factors and summary of the terms of issue.

14. The minimum subscription from any investor in initial and/or public offer shall be rupees fifty thousand.

(Substituted w.e.f 22.04.2019)

15. Initial offer and follow-on offer shall not be **open for subscription** for a period of more than thirty days.
16. In case of over-subscriptions, the REIT shall allot units to the applicants on a proportionate basis rounded off to the nearest integer subject to minimum subscription amount per subscriber as specified above.
17. The REIT shall **allot units or refund application** money as the case may be, within twelve working days from the date of closing of the issue.
18. The REIT shall issue units only in dematerialized form to all the applicants.
19. The price of REIT units issued by way of public issue shall be determined through the book building process or any other process in accordance with the circulars or guidelines issued by SEBI and in the manner as may be specified by SEBI.
20. The REIT shall refund money to, -



Note : In case of Clause (b), right to retain such over subscription cannot exceed twenty five percent of the issue size.

21. If the manager fails to allot, or list the units, or refund the money within the specified time, then the manager shall pay interest to the unit holders at 15% per annum, till such allotment/ listing/refund and such interest shall not be recovered in the form of fees or any other form payable to the manager by the REIT.

22. Units may be offered for sale to public:-

a) If such units have been held by the existing unit holders for a period of at least one year prior to the filing of draft offer document with SEBI.

However, the holding period for the equity shares, compulsorily convertible securities (from the date such securities are fully paid-up) or partnership interest in the holdco and/or SPV against which such units have been received shall be considered for the purpose of calculation of one year period.

Further the compulsorily convertible securities, whose holding period has been included for the purpose of calculation for offer for sale, shall be converted to equity shares of the holdco or SPV, prior to filing of offer document.

b) Subject to other circulars or guidelines as may be specified by SEBI in this regard.

23. If the REIT fails to make its initial offer within three years from the date of registration with SEBI, it shall surrender its certificate of registration to SEBI and cease to operate as a REIT. SEBI if it deems fit, may extend the period by another one year. Further, the REIT may later re-apply for registration, if it so desires.

		24. SEBI may specify by issue of guidelines or circulars any other requirements, as it deems fit, pertaining to issue and allotment of units by a REIT.
LISTING TRADING UNITS	& OF	1. After the initial offer it shall be mandatory for all units of REITs to be listed on a recognized stock exchange having nationwide trading terminals within a period of 12 working days from the date of closure of the offer. 2. The listing of the units of the REIT shall be in accordance with the listing agreement entered into between the REIT and the designated stock exchange. 3. The units of the REIT listed in recognized stock exchanges shall be traded, cleared and settled in accordance with the bye-laws of concerned stock exchanges and such conditions as may be specified by SEBI. 4. Trading lot for the purpose of trading of units of the REIT shall consist of 100 Units. (Substituted w.e.f 22.04.2019) 5. The REIT shall redeem units only by way of a buy-back or at the time of delisting of units. 6. The units of REIT shall be remain listed on the designated stock exchange unless delisted under these regulation. 7. The minimum public holding for the units of the listed REIT shall be 25% of the total number of outstanding units at all times, and the number of unit holders of the REIT forming part of the public shall be 200 at all times, failing which action may be taken as may be specified by SEBI and by the designated stock exchange including delisting of units. However, in case of breach of the conditions specified in this sub-regulation, the trustee may provide a period of six months to the manager to rectify the same, failing which the manager shall apply for delisting of units accordance with these regulations. 8. Any person other than the sponsor(s) holding units of the REIT prior to initial offer shall hold the units for a period of not less than one year from the date of listing of the units subject to circulars or guidelines as may be specified by SEBI. 9. SEBI and designated stock exchanges may specify any other requirements pertaining to listing and trading of units of the REIT by issuance of guidelines or circulars.
DELISTING UNITS	OF	1. The manager shall apply for delisting of units of the REIT to SEBI and the designated stock exchanges if,- (a) The public holding falls below the specified limit under these regulations. (b) The number of unit holders of the REIT forming part of the public falls below two hundred; (c) If there are no projects or assets remaining under the REIT for a period exceeding six months and REIT does not propose to invest in any project in future. The period may be extended by further six months, with the approval of unit holders in the manner as specified in these regulation. (d) SEBI or the designated stock exchanges require such delisting for violation of the listing agreement or these regulations or the Act; (e) The sponsor(s) or trustee requests such delisting and such request has been approved by unit holders in accordance with regulation 22(6); (f) Unit holders apply for such delisting in accordance with these regulations. (g) SEBI or the designated stock exchanges require such delisting for violation of the listing agreement, these regulations or the Act or in the interest of the unit holders.

	2. SEBI and the designated stock exchanges may consider such application for approval or rejection as may be appropriate in the interest of the unit holders. 3. SEBI, instead of requiring delisting of the units, if it deems fit, may provide additional time to the REIT or parties to the REIT to comply with regulations. 4. SEBI may reject the application for delisting and take any other action, as it deems fit, for violation of the listing agreement or these regulations or the Act. 5. The procedure for delisting of units of REIT including provision of exit option to the unit holders shall be in accordance with the listing agreement and in accordance with procedure as may be specified by SEBI and by the designated stock exchanges from time to time. 6. SEBI may require the REIT to wind up and sell its assets in order to redeem units of the unit holders for the purpose of delisting of units and SEBI may through circulars or guidelines specify the manner of such winding up or sale. 7. After delisting of its units, the REIT shall surrender its certificate of registration to SEBI and shall no longer undertake activity of a REIT. However, the REIT and parties to the REIT shall continue to be liable for all their acts of omissions and commissions with respect to activities of the REIT notwithstanding such surrender.
INVESTMENT CONDITIONS & DISTRIBUTION POLICY	❖ The Investment by a REIT shall only be in SPVs or properties or securities or TDR in India and the investment strategy as detailed in the offer document as may be amended in accordance with these regulations. ❖ The REIT shall not invest in vacant land or agricultural land or mortgages other than mortgage backed securities. However, this shall not apply to any land which is contiguous and extension of an existing project being implemented in stages. ❖ The REIT may invest in properties through SPVs subject to the following,- (a) no other shareholder or partner of the SPV shall have any rights that prevents the REIT from complying with the provisions of these regulations; (b) the manager, in consultation with the trustee, shall appoint not less than one authorized representative on the Board of directors or governing board of such SPVs; (c) the manager shall ensure that in every meeting including annual general meeting of the SPV, the voting of the REIT is exercised subject to provisions of Companies Act, 2013. ❖ Not less than eighty per cent. of value of the REIT assets shall be invested in completed and rent and/or income generating properties subject to the following,- (a) If the investment has been made through a holdco and/or SPV, whether by way of equity or debtor equity linked instruments or partnership interest, only the portion of direct investments in properties by such holdco and/or SPVs shall be considered under this sub-regulation. (b) If any project is implemented in stages, the part of the project which is completed and rent and/or income generating shall be considered under this sub-regulation and the remaining portion including any contiguous land. ❖ Not less than 75% of the revenues of the REIT and the SPV, other than gains arising from disposal of properties, shall be, at all times, from rental, leasing and letting real estate assets or any other income incidental to the leasing of such assets.

	❖ Not less than 75% of value of the REIT assets proportionately on a consolidated basis shall be rent generating. ❖ A REIT shall hold at least two projects, directly or through SPV, with not more than 60% of the value of the assets, proportionately on a consolidated basis, in one project. ❖ Conditions specified in above shall be monitored on a half-yearly basis and at the time of acquisition of an asset. If such conditions are breached, then manager shall inform the same to the trustee and ensure that the conditions as specified in this regulation are satisfied within six months of such breach. Further, the period may be extended by another six months subject to approval from investors in accordance with these regulations. ❖ A REIT shall hold any completed and rent generating property, whether directly or through SPV, for a period of not less than 3 years from the date of purchase of such property by the REIT or SPV. ❖ For any sale of property, whether by the REIT or the SPV or for sale of shares or interest in the SPV by the REIT exceeding 75% of the value of REIT assets in a financial year, the manager shall obtain approval from the unit holders in accordance with these regulations. ❖ A REIT shall not invest in units of other REITs. ❖ A REIT shall not undertake lending to any person other than the holding company/special purpose vehicle(s) in which the REIT has invested in, subject to disclosures specified in Schedule IV. However, investment in debt securities shall not be considered as lending. • With respect to <u>DISTRIBUTIONS MADE BY THE REIT AND THE SPV</u>, - (a) Not less than 90% of net distributable cash flows of the SPV shall be distributed to the REIT in proportion of its holding in the SPV subject to applicable provisions in the Companies Act, 2013 or the LLP Act, 2008; (b) Not less than 90% of net distributable cash flows of the REIT shall be distributed to the unit holders; (c) Such distributions shall be declared and made not less than once every six months in every financial year and shall be made not later than 15 days from the date of such declaration; (d) If any property is sold by the REIT or SPV, - (i) If the REIT proposes to reinvest sale proceeds into another property, it shall not be required to distribute any sale proceeds from such sale to the unit holders; and (ii) If the SPV proposes to reinvest sale proceeds, if any, into another property, it shall not be required to distribute any sale proceeds from such sale to the REIT; (iii) If the REIT or SPV proposes not to invest the sales proceeds made into any other property, it shall be required to distribute not less than 75% of the sales proceeds in accordance with clauses (a) and (b); (e) If the distributions are not made within 15 days of declaration, then the manager shall be liable to pay interest to the unit holders at the rate of 15% per annum till the distribution is made and such interest shall not be recovered in the form of fees or any other form payable to the manager by the REIT.
BORROWINGS AND DEFERRED PAYMENTS	❖ The aggregate consolidated borrowings and deferred payments of the REIT net of cash and cash equivalents shall never exceed 49% of the value of the REIT assets. However, such borrowings and deferred payments shall not include any refundable security deposits to tenants.

	❖ If the aggregate consolidated borrowings and deferred payments of the REIT net of cash and cash equivalents exceed 25% of the value of the REIT assets, for any further borrowing,- (a) Credit rating shall be obtained from a credit rating agency registered with SEBI and (b) Approval of unit holders shall be obtained in the manner as prescribed in these regulations. ❖ If the conditions specified above are breached on account of market movements of the price of the underlying assets or securities, the manager shall inform the same to the trustee and ensure that the conditions shall be satisfied within six months of such breach. ❖ A REIT, whose units are listed on a recognized stock exchange, may issue debt securities in the manner specified by SEBI. However, such debt securities shall be listed on recognized stock exchange(s).
VALUATION OF ASSETS	• The valuer shall not be an associate of the sponsor(s) or manager or trustee and shall have not less than five years of experience in valuation of real estate. • Full valuation includes a detailed valuation of all assets by the valuer including physical inspection of every property by the valuer. • Full valuation report shall include the mandatory minimum disclosures as specified in Schedule V to these regulations. • A full valuation shall be conducted by the valuer at least once in every financial year. However, such full valuation shall be conducted at the end of the financial year ending March 31st within three months from the end of such year. • A half yearly valuation of the REIT assets shall be conducted by the valuer for the half year ending on September 30 for incorporating any key changes in the previous six months and such half yearly valuation report shall be prepared within 45 days from the date of end of such half year. • Valuation reports received by the manager shall be submitted to the designated stock exchange and unit holders within 15 days from the receipt of such valuation reports. • No valuer shall undertake valuation of the same property for more than four years consecutively. The valuer may be reappointed after a period of not less than two years from the date it ceases to be the valuer of the REIT. (ROTATION OF VALUERS) • In case of any material development that may have an impact on the valuation of the REIT assets, then manager shall require the valuer to undertake full valuation of the property under consideration within not more than two months from the date of such event and disclose the same to the trustee, investors and the Designated Stock Exchanges within fifteen days of such valuation. • The valuer shall not value any assets in which it has either been involved with the acquisition or disposal within the last twelve months other than such cases where valuer was engaged by the REIT for such acquisition or disposal.
MAINTENANCE OF RECORDS	The manager shall maintain records pertaining to the activity of the REIT including,- ✓ decisions of the manager with respect to investments or divestments and documents supporting the same; ✓ details of investments made by the REIT and documents supporting the same; ✓ agreements entered into by the REIT or on behalf of the REIT;

	✓ documents relating to appointment of persons as specified in regulation 10(5); ✓ insurance policies for real estate assets; ✓ investment management agreement; ✓ documents pertaining to issue and listing of units including initial offer document or follow-on offer document(s) or other offer document(s), in-principle approval by designated stock exchanges, listing agreement with the designated stock exchanges, details of subscriptions, allotment of units, etc.; ✓ distributions declared and made to the unit holders; ✓ disclosures and periodical reporting made to the trustee, SEBI, unit holders and designated stock exchanges including annual reports, half yearly reports, etc.; ✓ valuation reports including methodology of valuation; ✓ books of accounts and financial statements; ✓ audit reports; ✓ reports relating to activities of the REIT placed before the Board of Directors of the manager; ✓ unit holders' grievances and actions taken thereon including copies of correspondences made with the unit holders and SEBI, if any; ✓ Any other material documents.
RIGHTS & MEETING OF UNITHOLDERS	1. The unit holder shall have the rights to receive income or distributions as provided for in the Offer document or trust deed. 2. With respect to any matter requiring approval of the unit holders,- (a) a resolution shall be considered as passed when the votes cast by unit holders, so entitled and voting, in favour of the resolution exceed a certain percentage, as specified in this regulation, of the votes cast against; (b) the voting may also be done by postal ballot or electronic mode; (c) a notice of not less than 21 days either in writing or through electronic mode shall be provided to the unit holders; (d) voting by any person who is a related party in such transaction as well as associates of such person(s) shall not be considered on the specific issue; (e) manager shall be responsible for all the activities pertaining to conducting of meeting of the unit holders, subject to overseeing by the trustee. However, In case of issue related to manager such as change in manager including removal of the manager or change in control of the manager, then trustee shall convene and handle all activities pertaining to conduct of the meetings. Further, in case of issues related to trustee such as change in the trustee, the trustee shall not be involved in any manner in the conduct of the meeting. 3. An annual meeting of all unit holders shall be held not less than once a year within 120 days from the end of financial year and the time between two meetings shall not exceed 15 months. 4. With respect to the annual meeting of unit holders,- (a) any information which is required to be disclosed to the unit holders and any issue, in the ordinary course of business, may require approval of the unit holders may be taken up in the meeting including,- • latest annual accounts and performance of the REIT; • approval of auditor and fees of such auditor, as may be required; • latest valuation reports; • appointment of valuer, as may be required; • any other issue including special issues as specified (b) For any issue taken up in such meetings which require approval from the unit holders, votes cast in favour of the resolution shall not be less than one and a half times the votes cast against the resolution.

DISCLOSURES	The manager shall disclose to the designated stock exchanges any information having bearing on the operation or performance of the REIT as well as price sensitive information which includes but is not restricted to the following,- • Acquisition or disposal of any properties, value of which exceeds 5% of value of the REIT assets; • Additional borrowing, at level of SPV or the REIT, resulting in such borrowing exceeding 5% of the value of the REIT assets during the year; • Additional issue of units by the REIT; • Details of any credit rating obtained by the REIT and any change in such rating; • Any issue which requires approval of the unit holders; • Any legal proceedings which may have significant bearing on the functioning of the REIT; • Notices and results of meetings of unit holders; • Any instance of non-compliance with these regulations including any breach of limits specified under these regulations;
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UNIT 15: INFRASTRUCTURE INVESTMENT TRUSTS
SEBI (Infrastructure Investment Trust) Regulations, 2014

INTRODUCTION	The Securities and Exchange Board of India (SEBI) notified the Infrastructure Investment Trusts Regulations on 26 September 2014, it examine a structure that would provide an additional framework for investment in the infrastructure sector in India. The Finance Minister has also made necessary amendments in the Indian taxation with respect to InvITs. Infrastructure Investment Trusts will be able to invest in infrastructure projects only directly or through special purpose vehicles (SPVs). For public-private partnership (PPP) projects, investments can be routed only be through an SPV.
SEBI (INFRASTRUCTURE INVESTMENT TRUSTS) REGULATIONS, 2014	
DEFINITIONS	“PPP Project” means an infrastructure project undertaken on a Public-Private Partnership basis between a public concessioning authority and a private SPV concessionaire selected on the basis of open competitive bidding or on the basis of an MOU with the relevant authorities. “Pre-Cod Project” means an infrastructure project which,- • has not achieved commercial operation date as defined under the relevant project agreements including • the concession agreement, • power purchase agreement or • any other agreement of a similar nature entered into in relation to the operation of a project or • any agreement entered into with the lenders; and • has achieved completion of at least 50% of the construction of the infrastructure project as certified by an independent engineer of such project or expended not less than 50% of the total capital cost set forth in the financial package of the relevant project agreement. “SPV” Or “Special Purpose Vehicle” means any company or LLP,- • in which the InvIT holds or proposes to hold controlling interest and not less than 50% of the equity share capital or interest. However, in case of PPP projects where such acquiring or holding is disallowed by government or regulatory provisions under the concession agreement or such other agreement, this clause shall not apply and shall be apply subject to provisions under proviso to sub-regulation (3) of regulation 12. • which holds not less than 90% of its assets directly in infrastructure projects and does not invest in other SPVs; and

	• which is not be engaged in any other activity other than activities pertaining to and incidental to the underlying infrastructure projects; ‘Strategic Investor’ means,– (a) An infrastructure finance company registered with RBI as a NBFC. (b) A Scheduled Commercial Bank (c) An International Multilateral Financial Institution. (d) A systemically important NBFCs registered with RBI (e) A foreign portfolio investors, who invest, either jointly or severally, not less than 5% the total offer size of the InvIT or such amount as may be specified by SEBI from time to time subject to the compliance with the applicable provisions, if any, of the Foreign Exchange Management Act, 1999 and the rules or regulations or guidelines made thereunder; “Eligible Infrastructure Project” means an infrastructure project which, prior to the date of its acquisition by, or transfer to, the InvIT, satisfies the following conditions,– • For PPP projects,– (a) the Infrastructure Project is completed and revenue generating, or (aa) the Infrastructure Project, which has achieved commercial operations date and does not have the track record of revenue from operations for a period of not less than one year, or (b) the Infrastructure Project is a pre-COD project; • In non-PPP projects, the infrastructure project has received all the requisite approvals and certifications for commencing construction of the project.
REGISTRATION OF IIT	Any person shall not act as an InvIT unless it has obtained a certificate of registration from the SEBI under these regulations. An application for grant of certificate of registration as InvIT shall be made by the sponsor in such form and in such a manner as prescribed in these regulations. The SEBI may, in order to protect the interests of investors, appoint any person to take charge of records, documents of the applicant and for this purpose, also determine the terms and conditions of such an appointment. The SEBI shall take into account requirements as specified in these regulations for the purpose of considering grant of registration.
ELIGIBILITY CRITERIA (Important)	(a) APPLICANT: • Applicant is the Sponsor on behalf of Trust and • the Trust deed must be duly registered in India under the provisions of the Registration Act, 1908 • Containing the main objective as undertaking activity of REIT in accordance with the set regulations. (b) SPONSOR: • There are not more than 3 sponsors. • Each sponsor must have Net worth of not less than Rs. 100 Crores if it is a body corporate or a company; or Net tangible assets of value not less than Rs 100 crore in case it is a limited liability partnership • Sound track record in development of infrastructure or fund management in the infrastructure sector. • each sponsor shall be clearly identified in the application of registration to the Board and in the offer document/ placement memorandum, as applicable; Explanation:- For the purpose of this clause, ‘sound track record’ means experience of at least 5 years and where the sponsor is a developer, at least two projects of the

sponsor have been completed;

(c) **INVESTMENT MANAGER:**

The Investment Manager has:-

- Net worth of not less than rupees 10 crores if the investment manager is a body corporate or a company or
- Net tangible assets of value not less than 10 crores rupees in case the investment manager is a limited liability partnership.
- Not less than 5 years' experience in fund management or advisory services or development in the infrastructure sector.
- Not less than 2 employees who have at least 5 years' experience each, in fund management or advisory services or development in the infrastructure sector;
- Not less than one employee who has at least 5 years' experience in the relevant sub-sector(s) in which the InvIT has invested or proposes to invest.
- Not less than half of its directors in case of a company or members of the governing board and in case of an LLP as independent and not directors or members of the governing board of another InvIT;
- An office in India from where the operations pertaining to the InvIT is proposed to be conducted.
- Entered into an investment management agreement with the trustee which provides for the responsibilities of the investment manager in accordance with these regulations.
- The project manager has been identified and shall be appointed in terms of the project implementation/ management agreement:
Provided that the project implementation agreement/ management agreement shall be submitted along with the draft offer document/ or the placement memorandum;

(d) **TRUSTEE:**

It should be registered with SEBI under SEBI (Debenture Trustees) Regulations, 1993; not an associate of the sponsor/ manager and the trustee has such wherewithal with respect to infrastructure, personnel, etc. to the satisfaction of SEBI and in accordance with circulars or guidelines as may be specified by SEBI;

(e) The project implementation agreement has been entered into between the project manager, the concessionaire SPV and the trustee acting on behalf of the InvIT which sets out obligations of the project manager with respect to execution of the project.

(f) No unit holder of the InvIT enjoys Superior voting or any other rights over another unit holder;

(g) There shall not be multiple classes of units of InvITs;

(h) The applicant has clearly described at the time of registration, details pertaining to proposed activities of the InvIT;

(i) The applicant, sponsor(s), investment manager, project manager(s) and trustee are fit and proper persons based on the criteria as specified in SEBI (Intermediaries) Regulations, 2008;

(j) Whether any previous application for grant of certificate made by the **InvIT or the parties to the InvIT or their directors/members of governing board** has been rejected by the SEBI;

(k) Whether any disciplinary action has been taken by the SEBI or any other regulatory authority against the **InvIT or the parties to the InvIT or their directors/members of governing board** under any Act or the regulations or circulars or guidelines made thereunder.

RIGHTS & RESPONSIBILITIES OF TRUSTEE	❖ Same as REIT
RIGHTS & RESPONSIBILITIES OF INVESTMENT MANAGER	✓ Same as REIT
RESPONSIBILITIES OF PROJECT MANAGER	• The project manager shall undertake operations and management of the InvIT assets including making arrangements for the appropriate maintenance, as may be applicable, either directly or through the appointment and supervision of appropriate agents and as required under any project agreement including a concession agreement in the case of a PPP project. • If the InvIT invests in under construction projects, the project manager shall,– – undertake the operations and management of the projects, either directly or through appropriate agents; – oversee the progress of development, approval status and other aspects of the project upto its completion, in case of appointment of agents for the purpose of execution. • The project manager shall discharge all obligations in respect of achieving timely completion of the infrastructure project, wherever applicable, implementation, operation, maintenance and management of such infrastructure project in terms of the project management agreement.
RIGHTS & RESPONSIBILITIES OF SPONSER	➤ The sponsor(s) shall set up the InvIT and appoint the trustees of the InvIT. ➤ The sponsor(s) shall transfer or undertake to transfer to the InvIT, its entire shareholding or interest in the SPV or ownership of the infrastructure projects, subject to a binding agreement and adequate disclosures in the offer document or placement memorandum, prior to allotment of units of the InvIT. ➤ With respect to holding of units in the InvIT, the sponsor(s) together shall hold not less than 25% of the total units of the InvIT after initial offer of units, on a post-issue basis for a period of not less than 3 years from the date of the listing of such units. However, in case of PPP projects, in case such acquiring or holding is disallowed by government or under any provisions of the concession agreement or any other such agreement,– – the sponsor may continue to maintain such holding at the SPV level; – the consolidated value of all such holdings at the SPV level and the value of the units of InvIT held by the sponsor shall not be less than the value of 25% of the total units of the InvIT after initial issue of units on a post-issue basis; – such units of the InvIT and shares or interest in the SPV shall be held for a period of not less than three years from the date of the listing of units of the InvIT; – in case such holding of sponsor in the SPV results in the InvIT not having controlling interest and not having more than fifty per cent shareholding or interest in the SPV, the sponsor shall enter into a binding agreement with the InvIT to ensure that decisions taken by the sponsor including voting with respect to the SPV are in compliance with these regulations and not against the interest of the InvITs or the unit holders and shall be subject to further guidelines as may be specified by SEBI. • Any holding by sponsor in InvIT, exceeding twenty five per cent on a post issue basis, shall be held for a period of not less than one year from the date of listing of such units.
RIGHTS & RESPONSIBILITIES OF VALUER AND	• Same as REIT

AUDITOR	
ISSUE OF UNITS & ALLOTMENT	❖ No initial offer of units by an InvIT shall be made unless,– • The InvIT is registered with SEBI under these regulations; • The value of the Inv IT assets is not less than rupees 500 crores. <i>Explanation-</i> Such value shall mean the value of the specific portion of the holding of InvIT in the underlying assets or Holdco or SPVs; • The offer size is not less than rupees 250 crores. However, the requirement of ownership of assets and offer size may be complied with after initial offer or first offer of units under private placement subject, to a binding agreement with the relevant party(ies) that the requirements shall be fulfilled prior to allotment of units, a declaration to SEBI and the designated stock exchanges to that effect, where applicable and adequate disclosures in this regard in the offer document or placement memorandum. • The minimum offer and allotment to public through an offer document/ placement memorandum shall be,– (a) atleast twenty five per cent. of the total outstanding units of the InvIT, if the post issue capital of the InvIT calculated at offer price is less than rupees 1600 Crores: Provided that this requirement shall be complied along with the requirement under Regulation 14(1)(c) of the InvIT Regulations. (b) of the value of atleast Rs 400 crore, if the post issue capital of the InvIT calculated at offer price is equal to or more than rupees 1600 crore and less than rupees 4000 crore; (c) atleast ten per cent. of the total outstanding units of the InvIT, if the post issue capital of the InvIT calculated at offer price is equal to or more than rupees 4000 crore: Provided that any units offered to sponsor or the investment manager or the project manager or their related parties or their associates shall not be counted towards units offered to the public. Provided further that any listed InvIT which has public holding below twenty five per cent on account of sub-clauses (b) and (c) above, such InvIT shall increase its public holding to at least twenty five per cent, within a period of three years from the date of listing pursuant to initial offer. ❖ If the InvIT raises funds by way of private placement: • it shall do it through a placement memorandum; • from Institutional investors and body corporate only, whether Indian or foreign. In case of foreign investors, such investment shall be subject to guidelines as may be specified by RBI and the government from time to time; • with minimum investment from any investor of rupees one crore; Apart the above, if such an privately placed InvIT invests or proposes to invest not less than eighty per cent of the value of the InvIT assets, in completed and revenue generating assets, the minimum investment from an investor shall be rupees twenty five crore; • from not less than five and not more than one thousand investors. • shall file a placement memorandum with the Board alongwith the fee as

specified in Schedule II, atleast 5 days prior to opening of the issue:
Provided that such opening of the issue shall not be at a date later than 3 months from the receipt of in-principle approval for listing, from exchange(s).

- it shall file the final placement memorandum with the Board within a period of ten working days from the date of listing of the units issued therein.

❖ If the InvIT raises funds by Public Issue: **(December 2018)**

- It shall be by way of Initial Public Offer;
- Any subsequent issue of units after initial offer may be by way of follow-on offer, preferential allotment, qualified institutional placement, rights issue, bonus issue, offer for sale or any other mechanism and in the manner as may be specified by SEBI;
- minimum subscription from any investor in initial and follow-on offer shall be One lakh rupees; (Reduced from 10 Lakhs to 1 Lakh w.e.f 22.04.2019)
- Prior to initial Public offer and follow-on offer, the merchant banker shall file the draft offer document along with the fee specified in Schedule II, with the designated stock exchange(s) and SEBI not less than 30 working days before filing the final offer document with the designated stock exchange and SEBI;
- the draft offer document filed with SEBI shall be made public, for comments, if any, by hosting it on the websites of SEBI, InvIT, designated stock exchanges and merchant bankers associated with the issue for a period of not less than 21 days;
- SEBI may communicate its comments to the lead merchant banker and, in the interest of investors, may require the lead merchant banker to carry out such modifications in the draft offer document as it deems fit;
- the lead merchant banker shall ensure that all comments received from SEBI on the draft offer document are suitably addressed prior to the filing of the offer document with the designated stock exchanges;
- In case no observations are issued by the board in the draft offer document within 21 working days from the date of receipt of satisfactory reply from the merchant banker or manager; the InvIT may file the offer document or follow on offer document with the board & Exchanges;
- The draft offer document & the offer document shall be accompanied with a due diligence certificate signed by the lead merchant banker.
- The offer document shall be filed with designated stock exchanges and the board not less than 5 working days before opening of the offer;
- The InvIT may open the IPO or FPO or rights issue within a period of not more than 1 year from the date of issuance of observations by the board; after lapse of 1 year, fresh draft offer document shall be filed;
- the InvIT shall issue units in only in dematerialized form to all the applicants;
- initial offer and follow-on offer shall not be open for subscription for a period of more than thirty days;
- The InvIT shall refund money:
 - to all the applicants in case it fails to collect subscription of atleast ninety per cent. of the fresh issue size as specified in the offer document; (*not received minimum subscription*)
 - to applicants to the extent of the over subscription, in case the moneys received is in excess of the extent of over-subscription as specified in the offer document, money shall be refunded to applicants to the extent of the oversubscription:

Provided that right to retain such over subscription cannot exceed twenty five per cent. of the issue size;

Provided further, that the offer document shall contain adequate disclosures towards the utilisation of such oversubscription proceeds, if any, and such proceeds retained on account of oversubscription

	shall not be utilised towards general purposes; ○ to all the applicants, in case the number of subscribers to the initial public offer forming part of the public is less than twenty; ❖ units may be offered for sale to public,– (i) if such units have been held by the sellers for a period of at least one year prior to the filing of draft offer document with SEBI. However, the holding period for the equity shares, compulsorily convertible securities (from the date such securities are fully paid-up) or partnership interest in the holdco or SPV against which such units have been received shall be considered for the purpose of calculation of one year period; Further the compulsorily convertible securities, whose holding period has been included for the purpose of calculation for offer for sale, shall be converted to equity shares of the holdco or SPV, prior to filing of offer document. (ii) subject to other guidelines as may be specified by SEBI in this regard;
LISTING & TRADING OF UNITS	• It shall be mandatory for units of all InvITs to be listed on a recognized stock exchange having nationwide trading terminals, whether publicly issued or privately placed. However, this sub-regulation shall not apply if the initial offer does not satisfy the minimum subscription amount or the minimum number of subscribers under these regulations. • The listing of the units shall be in accordance with the listing agreement entered into between the InvIT and the designated stock exchanges. • The units of the InvIT listed in the designated stock exchanges shall be traded, cleared and settled in accordance with the bye-laws of designated stock exchanges and such conditions as may be specified by SEBI. • The InvIT shall redeem units only by way of a buy-back or at the time of delisting of units. • The units shall remain listed on the designated Stock Exchanges unless delisted under these regulations. • The minimum public holding for the units of the publicly offered InvIT after listing shall be 25% of the total number of outstanding units, at all times, failing which action may be taken as may be specified by SEBI and by the designated stock exchanges including delisting of units under these regulations. • The minimum number of unit holders in an InvIT other than the sponsor(s),– – in case of privately placed InvIT, shall be five, each holding not more than 25% of the units of the InvIT. – forming part of public shall be twenty, each holding not more than 25% of the units of the InvIT, at all times post listing of the units, failing which action may be taken as may be specified by SEBI and by the designated stock exchanges including delisting of units under these regulations. • With respect to listing of privately placed units,– – its units shall be mandatorily listed on the designated stock exchange(s) within thirty working days from the date of allotment;

	- trading lot for the purpose of trading of units on the designated stock exchange shall be rupees one crore. Notwithstanding the above, if an InvIT invests not less than eighty per cent of the value of the InvIT assets, in completed and revenue generating assets, the trading lot for the purpose of trading of units on the designated stock exchange of such InvIT shall be rupees two crore. • With respect to listing of Publicly offered securities,- - its units shall be mandatorily listed on the designated stock exchange(s) within twelve working days from the date of Closure of initial public offer; However, this sub-regulation shall not apply if the initial public offer does not satisfy the minimum subscription amount or the minimum number of subscribers as prescribed in these regulations. - trading lot for the purpose of trading of units on the designated stock exchange shall consist of 100 units. • Any person other than the sponsor(s) holding units of the InvIT prior to initial offer shall hold the units for a period of not less than one year from the date of listing of the units. • SEBI and designated stock exchanges may specify any other requirements pertaining to listing and trading of units of the InvIT by issuance of guidelines or circulars.
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UNIT 16: REGULATORY FRAMEWORK GOVERNING STOCK EXCHANGES

Securities Contract Regulation Act 1956

INTRODUCTION	Stock exchanges constitute the primary institution of the secondary market. It is an important institution that facilitates the issue and sale of various types of securities. It is a pivot around which every activity of the capital market revolves. Stock exchange represents the market place for buying and selling of securities and ensures liquidity to them in the interest of the investors.
SECURITIES CONTRACTS (REGULATION) ACT, 1956	The Securities Contracts (Regulation) Act, 1956 was enacted by Parliament to: (i) Prevent undesirable transactions in securities by regulating the business of dealing therein, and (ii) Provide for certain other matters connected therewith. The Act extends to the whole of India and came into force on 28th February, 1957. However, the provisions of this Act shall not apply to: (i) The Government, the Reserve Bank of India, any local authority or any corporation set up by a special law; (ii) Any convertible bond or share warrant or any option or right in relation thereto.
IMPORTANT DEFINITIONS	➤ Securities: Securities include: (i) Shares, Scrips, stocks, bonds, debentures, debenture stock or other marketable securities of a like nature in or of any incorporated company or body corporate. (ii) Derivative and Security Receipt. (iii) Units or any other instrument issued by any collective investment scheme. (iv) Units or any such instrument issued to investors under any mutual fund scheme. (v) Government securities. (vi) Such other instruments as may be declared by Central Government to be securities. (vii) Rights or interest in securities. ➤ Spot Delivery Contracts: A spot delivery contract means a contract which provides for: (i) Actual delivery of securities and the payment of a price therefore either on the same day as the date of the contract or on the next day, the actual period taken for the dispatch of the securities or the remittance of money therefore through the post being excluding from the computation of the period aforesaid if the parties to the contract do not reside in the same town or locality; (ii) Transfer of the securities by depository from account of beneficial owner to account of another beneficial owner when such securities are dealt with by a depository. ➤ Stock Exchange: Stock Exchange means: (i) Anybody of individuals, whether incorporated or not, constituted before corporatization and demutualization under Sections 4A and 4B, or (ii) A body corporate incorporated under the Companies Act, 2013 whether under a scheme of corporatization or otherwise, for the purpose of assisting, regulating or controlling the business of buying, selling or dealing in securities. ➤ Clearing Corporation: (June 2019) A recognized stock exchange has the power, with the prior approval of SEBI, to transfer the duties and functions of a clearing house to a clearing corporation for

	the purpose of: (i) The periodical settlement of contracts and differences thereunder; (ii) The delivery of, and payment for, securities; (iii) Any other matter incidental to, or connected with, such transfer. Every clearing corporation shall make bye – laws and submit the same to the SEBI for its approval. SEBI may, on being satisfied that it is in the interest of the trade and also in the public interest to transfer the duties and functions of a clearing house to a clearing corporation, grant approval to the bye – laws submitted to it and approve transfer of the duties and functions of a clearing house to a clearing corporation.
RECOGNIZED STOCK EXCHANGES	Any stock exchange which is desirous of being recognized for the purposes of this Act may make an application in the prescribed manner to the Central Government. Every application shall contain such particulars as may be prescribed, and also a copy of the rules relating in general to the constitution of the stock exchange and in particular to: (i) The governing body of such stock exchange, its institution and powers of management and the manner of transacting the business. (ii) The powers and duties of the office bearers of the stock exchange. (iii) The admission into the stock exchange of various classes of members, the qualifications and other related matters. (iv) The procedure for the registration of partnerships as members of the stock exchanges. If the Central Government is satisfied (power can also be exercised by SEBI) after making such inquiry as may be necessary in this behalf and after obtaining such further information, if any, as it may require: (a) That the rules and bye laws of a stock exchange applying for registration are in conformity with such conditions as may be prescribed with a view to ensure fair dealing and to protect investors; (b) That the stock exchange is willing to comply with any other conditions (including conditions as to the number of members) which the Central Government after consultation with the governing body of the stock exchange and having regard to the area served by the stock exchange and its standing and the nature of the securities dealt with by it, may impose for the purpose of carrying out the objects of this act; and (c) That it would be in the interest of the trade and also in the public interest to grant recognition to the stock exchange; The conditions which the Central Government can prescribe for the grant of recognition to the stock exchanges may include, among other matters, conditions relating to: (i) The qualifications for membership of stock exchange; (ii) The manner in which contracts shall be entered into and enforced as between members; (iii) The representation of the Central Government on each of the stock exchanges by such number of persons not exceeding three as the Central Government may nominate in this behalf; (iv) The maintenance of account of members and their audit by CA whenever such audit is required by CG. Every Grant of recognition of a stock exchange under this section shall be published in the Gazette of India and also in the Official Gazette of the State in which the principal office of stock exchange is situated, and such recognition shall have effect

	as from the date of its publication in the Gazette of India. No Application for the grant of recognition shall be refused except after giving an opportunity to the stock exchange concerned to be heard in this matter; and the reasons for such refusal shall be communicated to the stock exchange in writing.
DEMUTUALISATION OF STOCK EXCHANGES (June 2015) (June 2016)	The process of demutualization is to convert the traditional “not for – profit” stock exchanges into a “for profit” company and this process is to transform the legal structure from a mutual form to a business corporation form. The Important Features of the Demutualization exercise are as follows: (a) The board of a stock exchange should consist of 75% public interest/shareholders directors and only 25% broker directors, and (b) 51% shareholding of the stock exchange should be divested to public/investors other than trading member brokers and only 49% of shareholding can remain with the trading member brokers. This will transform our broker – owned stock exchanges into professionally – run corporate stock exchanges. Options for Divestment/Dilution of Broker’s Shareholding in a Stock Exchange are: (a) Offer for sale (b) Private placement of shares (c) Fresh issue of shares to the public through an IPO. Purpose of Demutualization: (a) Stock exchanges owned by members tend to work towards the interest of members alone, which could on occasion be detrimental to rights of other stakeholders. Division of ownership between members and outsiders can lead to a balanced approach, remove conflicts of interest, create greater management accountability. (b) Publicity owned stock exchanges can enter into capital market for expansion of business. (c) Publicity owned stock exchange would be more professionally managed than broker owned. (d) Demutualization enhances the flexibility of management.
SHAREHOLDING IN A RECOGNIZED STOCK EXCHANGE (SECTION 17 of SEBI Stock Exchange & Clearing Corporation Regulations)	(1) Atleast fifty one per cent. of the paid up equity share capital of a recognised stock exchange shall be held by public. (2) No person resident in India shall at any time, directly or indirectly, either individually or together with persons acting in concert, acquire or hold more than five per cent. of the paid up equity share capital in a recognised stock exchange: Provided that,— (i) a stock exchange; (ii) a depository; (iii) a banking company (iv) an insurance company; and (v) a public financial institution, may acquire or hold, either directly or indirectly, either individually or together with persons acting in concert, upto fifteen per cent. of the paid up equity share capital of a recognised stock exchange. (3) No person resident outside India, directly or indirectly, either individually or together with persons acting in concert, shall acquire or hold more than five per cent. of the paid up equity share capital in a recognised stock exchange Provided that,- (i) a foreign stock exchange;

	(ii) a foreign depository; (iii) a foreign banking company; (iv) an foreign insurance company; and (v) a foreign commodity derivatives exchange, may acquire or hold, either directly or indirectly, either individually or together with persons acting in concert, upto fifteen per cent. of the paid up equity share capital of a recognised stock exchange. Explanation.—For the purposes of this proviso, the persons referred to in clauses (i) to (v) shall mean persons recognised/ incorporated outside India. (4) Subject to the limits as otherwise prescribed by the Central Government from time to time, the combined holding of all persons resident outside India in the paid up equity share capital of a recognised stock exchange shall not exceed, at any time, forty-nine per cent. of its total paid up equity share capital; (5) No clearing corporation shall hold any right, stake or interest, of whatsoever nature, in any recognised stock exchange
SHAREHOLDING IN A RECOGNIZED CLEARING CORPORATION (SECTION 18 SEBI Stock Exchange & Clearing Corporation Regulations)	(1) At least fifty one per cent. of the paid up equity share capital of a recognised clearing corporation shall be held by one or more recognised stock exchange(s): Provided that no recognised stock exchange shall, directly or indirectly, either individually or together with persons acting in concert, acquire or hold more than fifteen per cent. of the paid up equity share capital in more than one recognised clearing corporation. (2) No person resident in India, except a recognised stock exchange as permitted in sub-regulation (1), shall at any time, directly or indirectly, either individually or together with persons acting in concert, acquire or hold more than five per cent. of the paid up equity share capital in a recognised clearing corporation: Provided that,— (i) a depository; (ii) a banking company; (iii) an insurance company; and (iv) a public financial institution, may acquire or hold, either directly or indirectly, either individually or together with persons acting in concert, upto fifteen per cent. of the paid up equity share capital of a recognised clearing corporation. (3) No person resident outside India shall, directly or indirectly, either individually or together with persons acting in concert, acquire or hold more than five per cent. of the paid up equity share capital in a recognised clearing corporation. (4) Subject to the limits as otherwise prescribed by the Central Government from time to time, the combined holding of all persons resident outside India in the paid up equity share capital of a recognised clearing corporation shall not exceed, at any time, forty-nine per cent. of its total paid up equity share capital.
WITHDRAWAL OF RECOGNITION	If the CG is of Opinion that the recognition granted to a stock exchange should in the interest of trade or in the public interest, be withdrawn, the CG may serve on the governing body of stock exchange a written notice that the CG is considering the withdrawal of the recognition for the reasons stated in the notice and after giving an opportunity to the governing body to be heard in the matter, the CG may withdraw, by notification in the Official Gazette, the recognition granted to the stock exchange.

		However, the withdrawal shall not affect the validity of any contract entered into or made before the date of the notification, and CG may, after consultation with the stock exchange, make such provision as it deems fit in the notification of withdrawal or in any subsequent notification similarly published for the due performance of any contract outstanding on that date.
POWER OF RECOGNIZED STOCK EXCHANGES	OF	(i) Any recognized stock exchange may, subject to the previous approval of SEBI, make bye – laws for the regulation and control of contracts. Such bye – laws may provide for; (ii) The opening and closing of markets and the regulation of the hours of trade; (iii) A clearing house for the periodical settlement of contracts and differences; (iv) Submission to SEBI by the clearing house as soon as may be after each periodical settlement of all or any of the following particulars: (a) The total number of each category of security carried over from one settlement period to another; (b) The total number of each category of security, contracts which have been squared up during the course of each settlement period; (c) The total number of each category of security actually delivered at each clearing. (d) The publication by clearing house of all or any of the particulars submitted to SEBI; (e) The regulation or prohibition of blank transfers; (f) The number and classes of contracts in respect of which settlements shall be made or differences paid through the clearing house; (g) The determination and declaration of market rates, including the opening, closing, highest and lowest rates for securities; (h) The terms, conditions and incidents of contracts; (i) The regulation of dealings by members for their own account; (j) The separation of the functions of jobbers and brokers; (k) The limitations on the volume of trade done by any individual member in exceptional circumstances.
PUNISHMENTS FOR CONTRAVENTIONS		The contravention of any of the bye – laws shall render the member concerned liable to one or more of the following punishments, namely:- (i) Fine or Expulsion from Membership, (ii) Suspension from Membership for a Specified Period, (iii) Any other penalty of a like nature not involving the Payment of Money.
POWER OF SEBI TO MAKE OR AMEND BYE – LAWS OF RECOGNIZED STOCK EXCHANGES	OR	(i) SEBI has the power to make bye – laws, for all or any of the matters specified in Section 9 or amend any bye – laws made by such stock exchange under that section. (ii) The bye – laws so made or amended shall be published in the Gazette of India and also in the Official Gazette of the State in which the principal office of the recognized stock exchange is situated. (iii) On such publication, the bye – laws so made or amended shall have effect as if they had been made or amended by the recorded stock exchange concerned. (iv) The making or the amendment or revision of any bye – laws shall in all cases be subject to the condition of previous publication.
POWER OF CENTRAL GOVERNMENT TO SUPERSEDE COMPANIES STOCK EXCHANGES	OF OR	In case the Central Government is of opinion that the governing body of any recognized stock exchange should be superseded, then, the Central Government may: (i) Serve on the governing body a written notice that the Central Government is considering the supersession of the governing body for the reasons specified in the notice; (ii) Give an opportunity to the governing body to be heard in the matter; (iii) Declare the governing body of such stock exchange to be superseded;

SUSPEND BUSINESS THEREOF	(iv) Appoint any person or persons to exercise and perform all the powers and duties of the governing body; and (v) Appoint one of such persons to be the chairman and another to be the vice – chairman thereof.
SUSPENSION OR WITHDRAWAL OF ADMISSION TO DEALINGS IN SECURITIES ON STOCK EXCHANGE	(i) A recognized stock exchange has power to suspend or withdraw admission to dealings in the securities of a company or body corporate either for a breach of or non – compliance; (ii) No such action shall be taken by a stock exchange without giving a reasonable opportunity of being heard to the company; (iii) Where a recognized stock exchange has withdrawn admission to dealings in any security, or where suspension of admission to dealings has continued for a period exceeding three months, the company or body corporate concerned may appeal to SEBI.
ADDITIONAL TRADING FLOOR	A stock exchange may establish additional trading floor with prior approval of SEBI in accordance with the terms and conditions stipulated by SEBI. Additional trading floor means a trading ring or trading facility offered by a recognized stock exchange outside its area of operating to enable the investors to buy and sell securities through such trading floor under the regulatory framework of that stock exchange.
CONTRACT IN CERTAIN CASES TO BE VOID	Any Contract entered into in any State or Area specified in the notification under Section 13 which is in contravention of any of the bye laws specified in that behalf under Clause (a) of sub section (3) of Section 9 shall be Void. (i) As respect the rights of any member of the recognized stock exchange who has entered into such contract in contravention of any such bye laws, and also (ii) As respects the rights of any other person who has knowingly participated in the transaction entailing such contravention. Nothing in sub section 1 shall be construed to affect the right of any person other than a member of the recognized stock exchange to enforce any such contract or to recover any sum under or in respect of such contract if such person had no knowledge that the transactions was in contravention of any of the bye laws specified in clause (a) of Sub Section (3) of Section 9.

UNIT 17: SECURITIES AND EXCHANGE BOARD OF INDIA

SEBI is a body corporate having perpetual succession and a common seal with power to acquire, hold and dispose of property, both movable and immovable and to contract, sue and be sued in its own name.

Its Head Office is at Mumbai and is empowered to establish its offices at other places in India. SEBI presently has offices also in Ahmedabad, Jaipur, Kolkata, Guwahati, Bhubaneswar, New Delhi, Chennai and Bengaluru.

OBJECTIVE	SEBI Act, 1992 was enacted to empower SEBI with statutory powers for: (i) Protecting the interests of investors in securities, (ii) Promoting the development of the securities market, and (iii) Regulating the securities market.
THE SEBI BOARD SHALL CONSIST OF THE FOLLOWING MEMBERS:	(i) A Chairman; (ii) 2 members from Ministry of Central Government dealing with finance & administration of the Companies Act, 2013; (iii) 1 member from the Reserve Bank of India; (iv) 5 other members of whom at least three shall be the whole – time members. (June 2007 Exams)
POWERS AND FUNCTIONS OF SEBI (June 2017)	It is the duty of SEBI to take such measures for the protection of the interest of the investors and promoting the development of the securities market. These measures include: (i) Regulating the Business in Stock Exchanges and any other securities market; (ii) Registering and Regulating the work of the Intermediaries; (iii) Registering and Regulating the work of the Depositories, Participants, FIIs and Credit Rating Agencies; (iv) Registering and Regulating the work of the Venture Capital Funds and Collective Investment Schemes; (v) Prohibiting the Unfair and Fraudulent Trade Practices; (vi) Prohibiting the Insider Trading in Securities; (vii) Regulating Substantial Acquisition of Shares and Takeover of Companies; (viii) Calling for any required Information, undertaking Inspections and conducting Inquiries and Audits of the Stock Exchanges; (ix) Levying Fees and other charges for carrying out the purposes of this section; (x) Conducting Research for above purposes; (xi) Performing any other function as may be prescribed.
SEBI HAS BEEN VESTED WITH THE SAME POWERS AS THAT OF A CIVIL COURT	(i) The discovery and production of books of accounts and other documents; (ii) Summoning and enforcing the attendance of persons and examining them on oath; (iii) Inspection of books, registers and other related instruments of intermediaries; (iv) Issuing commissions for the examination of the witnesses or documents.
POWER TO ISSUE DIRECTIONS	The SEBI has the power to prohibit any company from issuing any offer document in the interest of the investors. If SEBI is satisfied after making inquiries that it is necessary. In the interest of the investors: (i) To prevent the activities of any intermediaries; (ii) To secure proper management of such intermediary. <u>It may issue such directions, as may be necessary to:</u> (a) Any person or class of persons; (b) To any company for the matters relating to issue of capital, transfer of securities, etc.
INVESTIGATIONS	(i) If SEBI has reasonable grounds to believe that any matter connected with the securities market is being dealt with in such a way that it is detrimental to the interest of investors, it may direct an investigations;

	(ii) It is the duty of any authorized person of the company and every intermediary to produce necessary documents before the investigating authority; (iii) The investigating authority has the right to keep any books, registers, other documents and records for 6 months in this custody.
CONSENT ORDERS	It means an order setting administrative or civil proceedings between the regulator and a person who may be found to have violated securities laws. <u>It provides flexibility of wider array of enforcement and remedial actions which will achieve the twin goals of:</u> (i) Appropriate sanctions; (ii) Remedies & deterrence without resorting to litigation, lengthy proceedings and delays.
REGISTRATION OF INTERMEDIARIES	No stock – broker, sub – broker, share transfer agent, banker to an issue, trustee of trust deed, registrar to an issue, merchant banker, underwriter, investment adviser and such other intermediary who may be associated with securities market shall buy, sell or deal in securities except in accordance with the conditions of a certificate of registration obtained from SEBI. If such intermediary associated with securities market before the establishment of SEBI for which no registration certificate was necessary prior to such establishment, may continue to do so for a period of three months from such establishment or, if he has made an application for such registration within the period of 3 months, till the disposal of such application. Also no depository, participant, custodian of securities, foreign institutional investor, credit rating agency or any other intermediary associated with the securities market as SEBI may by notification in this behalf specify, shall buy or sell or deal in securities except under and in accordance with the conditions of a certificate of registration obtained from SEBI in accordance with the regulations made under this Act. No person shall sponsor or cause to be sponsored or carry on or cause to be carried on any venture capital funds or collective investment schemes including mutual funds, unless he obtains a certificate of registration from SEBI. Every application for registration would in such manner and on payment of such fees as may be determined by regulations. The Board may, by order, suspend or cancel a certificate of registration. However, no such order shall be made unless the person concerned has been given a reasonable opportunity of being heard.
PROHIBITION OF MANIPULATIVE AND DECEPTIVE DEVICES, INSIDER TRADING, ETC (DEC 2015)	Section 12A of the Act provides that no person shall directly or indirectly: (a) use or employ, in connection with the issue, purchase or sale of any securities listed or proposed to be listed on a recognized stock exchange, any manipulative or deceptive device or contrivance in contravention of the provisions of this Act or the rules or the regulations made thereunder; (b) employ any device, scheme or artifice to defraud in connection with issue or dealing in securities which are listed or proposed to be listed on a recognized stock exchange; (c) engage in any act, practice, course of business which operates or would operate as fraud or deceit upon any person, in connection with the issue, dealing in securities which are listed or proposed to be listed on a recognized stock exchange, in contravention of the provisions of this Act or the rules or the regulations made thereunder; (d) engage in insider trading; (e) deal in securities while in possession of material or non-public information or communicate such material or non-public information to any other person, in a manner which is in contravention of the provisions of this Act or the rules or the

	regulations made thereunder; (f) acquire control of any company or securities more than the percentage of equity share capital of a company whose securities are listed or proposed to be listed on a recognized stock exchange in contravention of the regulations made under this Act.
FINANCE, ACCOUNTS AND AUDIT OF SEBI	(i) The Central Government grants such sum of money as it may think fit for the purpose of conducting finance, accounts and audit of SEBI; (ii) A fund named Securities and Exchange Board of India General Fund shall be created for crediting all the grants, fees and charges received by the SEBI under the Act; (iii) The fund has to be applied for meeting the salaries, allowance and other remuneration of members and employees of SEBI; (iv) It is the duty of SEBI to maintain proper accounts and other relevant records.
PENALTIES FOR FAILURES	<u>Failure to Furnish any Document, Return or Report to the Board:</u> Penalty of Rs.1 lakh for each day of failure or 1 crore, whichever is less. <u>Failure to File any Return:</u> Penalty of Rs.1 lakh for each day of failure or 1 crore, whichever is less. <u>Failure to Maintain Books of Accounts or Records:</u> Penalty of Rs.1 lakh for each day of failure or 1 crore, whichever is less. <u>Failure to obtain a Certificate of Registration from SEBI:</u> Penalty of Rs.1 lakh for each day of failure or 1 crore, whichever is less. <u>Failure to Comply with the Terms and Conditions of the Certificate for Registration:</u> Penalty of Rs.1 lakh for each day of failure or 1 crore, whichever is less. <u>Failure to make an Application for Listing of the Schemes:</u> Penalty of Rs.1 lakh for each day of failure or 1 crore, whichever is less. <u>Failure by Collective Investment Schemes to dispatch unit Certificate of any Schemes:</u> Penalty of Rs.1 lakh for each day of failure or 1 crore, whichever is less. <u>Failure to Refund Application Monies of Investors of a Collective Investment Schemes:</u> Penalty of Rs.1 lakh for each day of failure or 1 crore, whichever is less. <u>Failure to invest the Money Collected by the Collective Investment Schemes:</u> Penalty of Rs.1 lakh for each day of failure or 1 crore, whichever is less. <u>Penalty for Insider Trading:</u> Penalty of Rs.25 crore or 3 times profit made out of insider trading, whichever is higher. <u>Penalty for Non – Disclosure of Acquisition of Shares and Takeovers:</u> Penalty of Rs.25 crore or 3 times profit made out of insider trading, whichever is higher. <u>Penalty for Contravention:</u> It is liable to a penalty which may extend to 1 crore.
ADJUDICATION	The SEBI has the power to adjudicate the offences committed. While adjudging the amount of penalty, the adjudicating officer shall look into the following factors:- (i) The amount of the unfair advantage; (ii) The amount of loss caused to an investor or group of investors; (iii) The repetitive nature of default.

**SECURITIES
APPELLATE
TRIBUNAL (SAT)**
(JUNE 2016)

To consider the appeals against SEBI orders, the Act provides for the establishment of Securities Appellate Tribunal by the Central Government.

The Securities Appellate Tribunal consists of a Presiding Officer and two other members. The person to be appointed as the Presiding Officer shall be a sitting or retired judge of the Supreme Court. Presiding Officer shall hold office for a term of 5 years or up to 70 years of age and is eligible for appointment. Members shall hold office for a term of 5 years or up to 62 years.

Filling up of Vacancies

Any vacancy occurred in the office of the Presiding Officer or any other member shall be filled by the Government in accordance with the provisions of the Act.

Resignation and Removal

- (i) A Notice in Writing is to be served to the Central Government by the Presiding Officer or any other member for the purpose of Resignation.”
- (ii) The Presiding Officer or any other member shall not be removed except by the Order of CG after proper enquiry and proved misbehavior or incapacity only.
- (iii) The Central Government has the power to lay down the procedures for any investigations.
- (iv) The Presiding Officer and every other member shall be given an opportunity of being heard before making any judgment.

Procedure of Securities Appellate Tribunal (JUNE 2011)

The SAT has all the powers to regulate their own procedure including the places at which they shall have their sittings.

Requirement for Appeal to the Tribunal

- (i) Appeal is to be filed in Securities Appellate Tribunal having the jurisdiction in the matter;
- (ii) No appeal shall lie from an order made by SEBI or an Adjudicating Officer with the consent of the parties;
- (iii) Every appeal shall be filed within a period of 45 days from the date of copy of the order;
- (iv) After the receipt of the appeal, the Securities Appellate Tribunal may, after giving the parties to the appeal an opportunity of being heard, pass such order thereon as it thinks fit, confirming, modifying or setting aside the order appealed against;
- (v) The decision on every filed shall be made within a period of 6 months.

Powers of the Securities Appellate Tribunal as a Civil Court

SAT has been vested with the same powers as that of a civil court:

- (i) The discovery and production of books of accounts and other documents;
- (ii) Summoning and enforcing the attendance of persons and examining them on oath;
- (iii) Inspection of books, registers and other related instruments of intermediaries;
- (iv) Inspection of books, registers and other related instruments of any listed company or a public company intending to get itself listed;
- (v) Issuing commission for the examination of the witnesses or documents.

Legal Representation

The Appellant has the power to appear in person or authorize one or more practicing Company Secretaries, Chartered Accountants or legal practitioners to present his or its case before the SAT.

Limitation

The provisions of the Limitation Act, 1963 will apply to an appeal made to the SAT.

Public servants

The Presiding Officer and other employees of the SAT shall be the public servants as

per the Indian Penal Code.

Jurisdiction of Civil Court

No civil court has any power to entertain any suit or proceedings in respect of any matter in the Act, for which the jurisdiction has been given to the Adjudicating Officer.

Appeal to Supreme Court

Any person aggrieved by an order of the SAT shall file an appeal to the Supreme Court within a period of 60 days.

Powers of Central Government

To Issue Directions:

The Central Government has the power to issue directions in writing to SEBI on question of policy as it may deem fit from time to time.

To Supersede the Board:

The Central Government has the power to supersede the Board for such period, not more than 6 months, as may be notified, after the satisfaction of necessary conditions.

Effects of Notification

- (i) All the members shall vacate the office;
- (ii) All the powers and functions discharged by SEBI will be now discharged by the persons appointed in this behalf by the Central Government;
- (iii) All the property owned and controlled by SEBI shall vest in the Central Government.

Delegation of Powers

SEBI has the power to delegate its powers to any member, officer of the Board or any other person as it may be necessary.

Appeal to the Central Government

Any person aggrieved by the order of SEBI shall prefer an appeal to the Central Government within such time made under prescribed form and manner.

Offences and Punishments

Contravention of any of the Provisions, Rules and Regulations of the Act:

It shall be punishable with imprisonment for a term which may extend to 10 years or with fine which may extend to Rs.25 crore or with both.

Failure to Pay any Penalty Imposed by the Adjudicating Officer:

It shall be punishable with imprisonment for a term which may extend to 10 years or with fine which may extend to Rs.25 crore or with both.

Power to Grant Immunity

- (i) The CG has the power to grant immunity in certain cases from prosecution for any offence under this Act with respect to the alleged violation;
- (ii) No court shall take cognizance of any offence punishable under this Act;
- (iii) No court inferior to that of a Court of Session shall try any offence punishable.

Power to make Rules and Regulations

The CG has the power to make rules for all or any of the following matters:-

- (i) Term of office and condition of service of Chairman or any other officer;
- (ii) Additional functions to be performed by the SEBI;
- (iii) The manner of maintaining the accounts by SEBI;
- (iv) The manner of enquiry by the Adjudicating Officer;
- (v) The salaries and allowances;
- (vi) The procedure for investigation of misbehavior and incapacity;
- (vii) The form in which appeal may be filed;

	(viii) The form and manner in which the reports and returns are to be made.
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The SEBI has the power to make regulations in respect of the following matters:-

- (a) The timings and places of meetings of SEBI;
- (b) Term of office and condition of service of Chairman or any other officer of SEBI;
- (c) The matters relating to issue of capital, transfer of securities;
- (d) The conditions subject to which certificate of registration is to be issued.

UNIT 18: DEPOSITORIES
Depositories Act, 1996
SEBI (Depositories & Participants) Regulations, 2018

INTRODUCTION	In order to provide a safe and efficient system of trading and settlement problems and in order to provide the regulatory framework for the depositories, the Depositories Act, 1996 was enacted. There are two depositories functioning in India i. e. National Securities Depository Limited (NSDL) and Central Depository Services (India) Limited (CDSL). A depository is like a Central Bank where the securities of a shareholder are held in the electronic form at the request of the shareholders. <i>As per Depositories Act, 1996, “Depository means a company formed and registered under the Companies Act, 2013 and which has been granted a certificate of registration under Section 12(1A) of the Securities and Exchange Board of India Act, 1992”.</i> It is an organization which is responsible to maintain investor’s securities in the electronic form is called the depository. In India, there are two such organizations viz. NSDL and CDSL. The depository concept is similar to the Banking system with the exception that banks handle funds whereas a depository handles securities of the investors. An investor wishing to utilize the services offered by a depository has to open an account with the depository through a Depository Participant. In short, a depository can be treated as a “Bank” for securities.
DEPOSITORY SYSTEM VS. BANKING (DEC 2010, DEC 2014)	It is like the banking system. A depository holds securities in accounts for its clients and transfers securities from one account to another. Earlier, the investors were using the share certificate which has many risks like risk of losing share certificate and risk of bad deliveries. In depository system, above risks have been phased out and it is as safe like your bank account.
BENEFITS OF DEPOSITORY SYSTEM (June 2017, June 2009, Dec 2009, Dec 2008)	(a) Elimination of bad deliveries. (b) Elimination of all risks associated with the physical certificates. (c) It facilitates the immediate transfer and registration of the securities. (d) It facilitates faster disbursement of non – cash corporate benefits like rights, bonus, etc. (e) It reduces the brokerage for trading in dematerialized securities. (f) Elimination of paper work and recording of transactions like transfer of shares. (g) Elimination of problems related to change of the address of investor, transmission, etc. (h) Elimination of problems related to selling securities on behalf of minor.

MODELS OF DEPOSITORY

(June 2018, June 2015, Dec 2011, Dec 2007, Dec 2015)

Dematerialization: It is a process of conversion of physical share certificate into electronic form. So, when a shareholder uses the dematerialization facility, a company takes back the shares, through depository system and equal number of shares is credited in his De – mat account in electronic form.

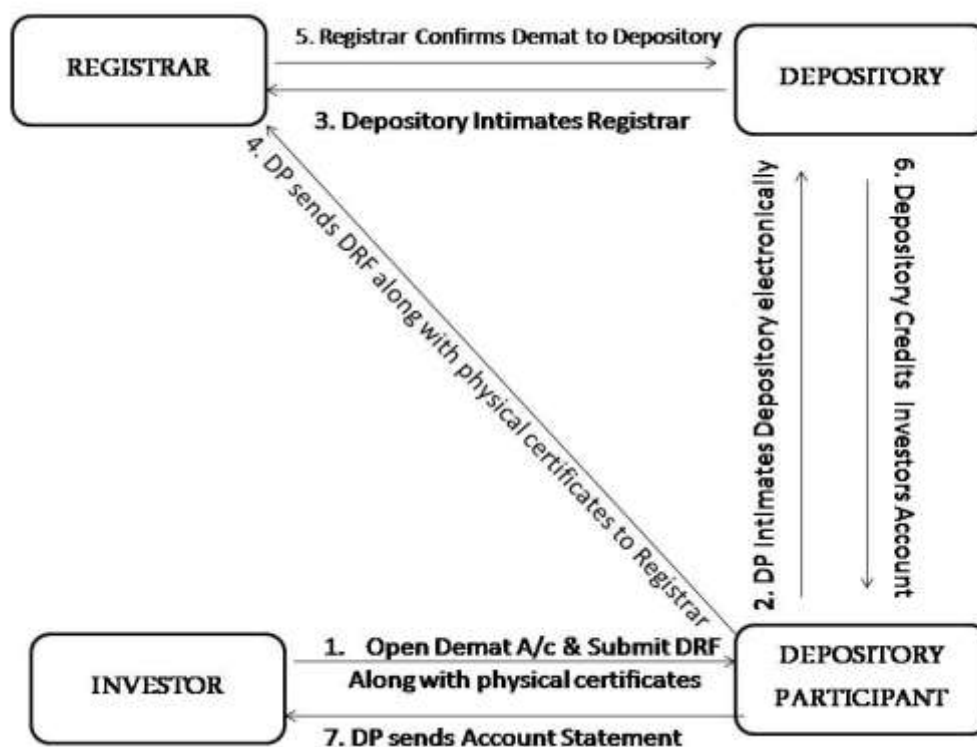
The investors can dematerialize only those shares certificate that are already registered in their name and belong to the list of securities admitted for dematerialized at the depositories. This method is cost effective and simple and has been adopted in India.

An Investor will have to first open an account with a Depository Participant and then request for Dematerialization of his share certificate through the Depository Participant so that the dematerialized holdings can be credited into that account. This is very similar to opening a bank account.

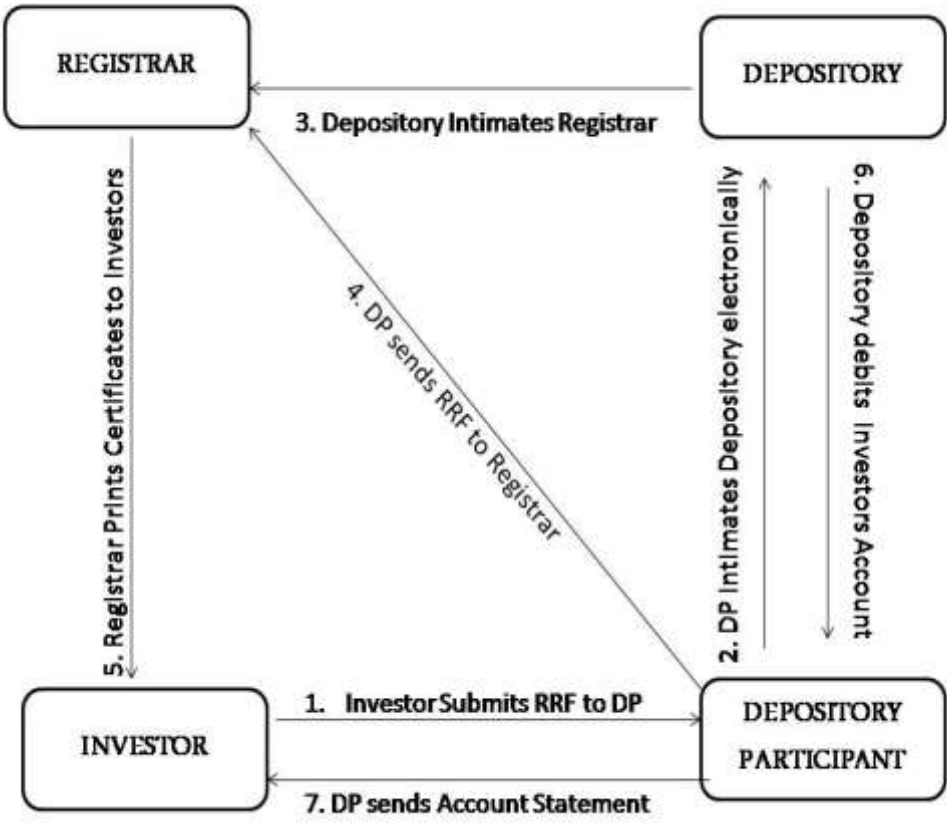
Dematerialization of shares is optional and an investor can still hold shares in physical form. However, he/ she has to Demat the shares if he/she wishes to sell the same through stock exchanges. Similarly, if an Investor purchases shares from stock exchange, he/she will get the delivery of shares in Demat form. **(June 2019 Exams)**

Immobilization: Where physical share certificates are kept in vaults with the depository for safe custody. All subsequent transactions in these securities take place in book entry form. The actual owner has the right to withdraw his physical securities as and when desired. The immobilization of fresh issue may be achieved by issuing a jumbo certificate representing the entire issue in the name of depository, as nominee of the beneficial owners.

DEMAT PROCESS



REMAT PROCESS (June 2017)

	 <pre> graph TD REGISTRAR[REGISTRAR] DEPOSITORY[DEPOSITORY] INVESTOR[INVESTOR] DP[DEPOSITORY PARTICIPANT] INVESTOR -- "1. Investor Submits RRF to DP" --> DP DP -- "2. DP intimates Depository electronically" --> DEPOSITORY DEPOSITORY -- "3. Depository intimates Registrar" --> REGISTRAR REGISTRAR -- "4. DP sends RRF to Registrar" --> DP REGISTRAR -- "5. Registrar prints certificates to investors" --> INVESTOR DEPOSITORY -- "6. Depository debits investors account" --> DP DP -- "7. DP sends account statement" --> INVESTOR </pre>
DEPOSITORY PARTICIPANT	• A Depository Participant (DP) is the representative of the investor in the depository system providing link between the Company and investors through depositories. • An investor opens its Demat Account with a Depository Participants for keeping its securities in electronic form. • As per SEBI regulations, DP could be organizations involved in the business of providing financial services like banks, brokers, custodians and financial institutions. • In short, it is a market intermediary through whom the depository services can be availed by the investors is called a Depository Participant (DP). <u>Functions of the Depository Participant in connection with Dematerialization:</u> (a) Acts as the agent of Depository; (b) Customer interface of Depository; (c) Account Opening; (d) Facilitates dematerialization; (e) Instant transfer on payout; (f) Credits to investor on IPO, rights and bonus; (g) Settles trades in the electronic segment. <u>Functions of the Registrar/Issuer in connection with Demat Account:</u> (a) Dematerialization; (b) Confirmation of Beneficiary Holdings; (c) Corporate actions – Rights, Bonus, etc.; (d) Reconciliation of Depository Holdings; (e) Dematerialization
LEGAL FRAMEWORK	The Depository business in India is regulated by: (i) The Depositories Act, 1996

	(ii) SEBI (Depositories and Participants) Regulations, 2018 (iii) By Laws of Depositories (iv) Business Rules of Depository Apart from the above, Depositories are also governed by certain provisions of: (i) Companies Act, 2013 (ii) Income Tax Act, 1961 (iii) SEBI Act, 1992 (iv) Securities Contract Regulations Act, 1956
THE DEPOSITORIES ACT, 1996	Objectives: (a) It acts as a legal basis for establishment of depositories; (b) Dematerialization of securities in the depositories mode becomes possible; (c) Making the securities fungible; (d) Making the shares, debentures and any interest thereon of a public limited company freely transferable; (e) Exempting all transfers of shares from the stamp duty. Eligibility for depository system: Any company or institution must: (a) Be formed and registered as a company under the Act; (b) Be registered with SEBI as a depository; (c) Have framed bye – laws with the previous approval of SEBI; (d) Have one or more participants; (e) Have adequate systems and safeguards to prevent manipulation of the records; (f) Comply with the Depositories Act, 1996 & SEBI (Depositories & Participants) Regulations, 2018; (g) Meet all the eligibility criteria. Eligible securities required to be in Depository mode: The Act gives the option to the investors to receive securities in physical form or in depository mode. It is not necessary that all eligible securities must be in the depository mode. In the scheme of the depository's legislation, the investor has been given supremacy. The investor has the choice of holding physical securities or opt for a depository based ownership record. However, in case of fresh issue of securities, all securities have to be in dematerialized form. However, after that investor will also have the freedom to switch from depository mode to non-depository mode and vice versa. The decision would be entirely with the investor. Fungibility: Fungibility means interchangeable or exchangeability. All securities held in depository shall be fungible i. e. all certificates of the same security shall become interchangeable in the sense that investor loses the right to obtain the exact certificate he surrenders at the time of entry into depository. It is like withdrawing money from the bank without bothering about the distinctive numbers of the currencies. In short, if a security or commodity is fungible if it is perfectly interchangeable with any other of the same type and class securities or commodities. Most financial securities are fungible a share in a particular company is exactly the same as another share in the same company. Fungibility is the property of a good or a commodity whose individual units are capable of mutual substitution. Rights of Depositor and the Beneficial Owner: The depository becomes the registered owner for the purpose of transferring ownership of securities on behalf of the beneficial owner. The beneficial owner possesses all the rights and benefits and is subjected to all the liabilities in respect of securities held by a depository. Register of Beneficial Owner: Every depository is required to maintain a register and

an index of beneficial owners in the manner provided in the companies act.

Pledge or Hypothecation of Securities held in a Depository: A beneficial owner may with the previous approval of depository create a Pledge or Hypothecation in respect of security owned by him through a depository. Every beneficial owner should give intimation of such pledge or hypothecation to the DP and such depository is required to make entries in its records accordingly. Any entry in the records of a depository should be evidence of a Pledge or Hypothecation.

Option to opt out in respect of any security: If a beneficial owner seeks to opt out of a depository in respect of any security he should inform the depository accordingly. Every issuer may, within 30 days of the receipt of intimation from the depository and on fulfillment of such conditions and on payment of such fees, issue the certificate of securities to the beneficial owner.

Depositories to Indemnify Loss in certain cases: Any loss caused to the beneficial owner due to the negligence of the depository or the participant, would be indemnified by the depository to such beneficial owner. Where the loss due to the negligence of the participant is indemnified by the depository, the depository has the right to recover the same from such participant.

Powers of SEBI:

1) SEBI in the public interest or in the interest of investors may by order in writing call upon any issuer, depository, participant or beneficial owner to furnish in writing such information relating to the securities held in a depository as it may required;

Or

Authorise any person to make an enquiry or Inspection in relation to the affairs of the issuer, beneficial owner, depository or participant, who shall submit a report of such enquiry or inspection to it within such period as may be specified in the order.

2) Every director, manager, partner, secretary, officer or employee of the depository or issuer or the participant or beneficial owner shall on demand produce before the person making the enquiry or inspection all information or such records and other documents in his custody having a bearing on the subject matter of such enquiry or inspection.

3) if after making enquiry or inspection, SEBI is satisfied that it is necessary in the interest of investors, or orderly development of securities market or to prevent the affairs of any depository or participant being conducted in the manner detrimental to the interest of investors or securities market, SEBI may issue **such directions** to any depository or participant or any other person associated with the securities market, or to any issuer as may be appropriate in the interest of investors or securities market.

Power of the Board to give Directions: SEBI may after proper investigations and enquiry, issue such directions to any depository or participant or any person associated with the securities market or to any issuer which may be in the interest of investors or the securities market or to prevent the affairs of any depository or participant being conducted in the manner detrimental to the interest of investor or securities market.

Penalties under the Act:

1. Penalty for failure to furnish information/ Return/ Documents/ Report to the board; Maintain books of accounts or records.
2. Penalty for failure to enter into Agreement.
3. Penalty for failure to redress investor's Grievances
4. Penalty for delay in dematerialization or Issue of Certificate of Securities
5. Penalty for failure to reconcile records.

One Lakh rupees for each day during which such failure continues or One Crore; Whichever is Less.

Penalty for contravention where no separate penalty has been provided:

Which may extend to one crore rupees.

Appeal to Securities Appellate Tribunal:

Any person aggrieved by an order of SEBI or by an adjudicating officer under this act may prefer an appeal to a SAT having jurisdiction in the matter. However, No appeal shall lie to SAT from an order made by SEBI with the consent of the parties. Every appeal shall be filed within a period of 45 days from the date on which a copy of the order made by SEBI is received by the person and it shall be in such form and be accompanied by such fees as may be prescribed.

Provided that the SAT may entertain an appeal after the expiry of the said period of 45 days if it is satisfied that there was sufficient cause for not filing it within that period.

On receipt of an appeal, SAT may pass such order as it thinks fit, confirming, modifying or setting aside the order appealed against after giving opportunity of being heard.

SAT shall send a copy of every order made by it to SEBI and parties to the appeal. The appeal filed before SAT shall be dealt with by it as expeditiously as possible and Endeavour shall be made by it to dispose of appeal finally within 6 months from the date of receipt of the appeal.

Appeal to Supreme Court:

Any person aggrieved by any decision or order of SAT may file an appeal to Supreme Court within 60 days from the date of communication of decision or order of SAT to him on any question of law arising out of such order.

Provided that Supreme Court may, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal within the said period, allow within a further period not exceeding 60 days.

Power of SEBI to make Regulations:

- The requirements to be complied with by a person for seeking registration as a Depository with SEBI
- The requirements for registration of a person as a Participant under SEBI act;
- The requirements for grant of certificate of commencement of business by depositories and the form in which the certificate of commencement of business has to be issued.
- The manner in which the certificate of security shall be surrendered to the issuer by any investor who is desirous of availing depository services.
- The manner in which the issuer has to cancel the certificates of securities received by it for cancellation and its intimation to the depository.
- The eligibility criteria for admission of securities into the depository
- The rights and obligation of depositories, participants and the issuers whose securities are dealt with by a depository.
- The requirements to be complied with by a beneficial owner for creating with the previous approval of depository, pledge or hypothecation in respect of a security owned by him through depository.
- The conditions and fees payable with respect to the issuer of certificate of securities to the beneficial owner where the beneficial owner seeks to opt out of the depository.

APPLICATION FOR GRANT OF CERTIFICATE OF REGISTRATION (REGULATION 3)	(1) No person shall establish a Depository unless he has obtained registration from the Board in accordance with the Act, the Depositories Act, 1996 and these regulations. (2) An application for the grant of a certificate of registration as a depository shall be made to the Board by an applicant in Form A of the First Schedule, shall be accompanied by the fee specified in Part A of the Second Schedule and be paid in the manner specified in Part B thereof. (3) The application shall be accompanied by draft bye-laws of the depository that is proposed to be set-up.
APPLICATION TO CONFORM TO THE REQUIREMENTS (REGULATION 4)	• An application in Form A of the First Schedule which is not complete in all respects and does not conform to the instructions specified therein shall be rejected: • Provided that before rejecting any such application, the applicant shall be given in writing an opportunity to remove, within thirty days of the date of communication in this regard, the objections indicated by the Board: • Provided further that the Board may, on being satisfied that it is necessary to extend the period specified in the first proviso, extend such period by such further time as it thinks necessary in order to enable the applicant to remove the objections indicated by the Board.
FURNISHING OF INFORMATION, CLARIFICATION AND PERSONAL REPRESENTATION (REGULATION 5)	(1) The Board may require the applicant to furnish such further information or clarification regarding matters relevant to the activity of the depository for the purpose of consideration of the application. (2) The applicant or his authorised representative shall, if so required, appear before the Board for personal representation, in connection with the grant of certificate of registration.
CONSIDERATION OF APPLICATION (REGULATION 6)	(1) The Board shall not consider an application under regulation 3, unless the applicant belongs to the category of shareholders eligible to hold upto 15% share capital of the depository in terms of sub-regulation (1) and (2) of regulation 21. (2) The Board shall not consider an application under regulation 3, unless the applicant is a fit and proper person as described in sub-regulation 2 of regulation 23.
GRANT OF CERTIFICATE OF REGISTRATION (REGULATION 7)	After considering the application under regulation 3, with reference to the qualifications specified in regulation 6, if the Board is satisfied that the company established by the applicant is eligible to act as depository, it may grant a certificate of registration in Form B of the First Schedule to the depository subject to the following, namely :— (a) the depository shall pay the registration fee specified in Part A of the Second Schedule in the manner specified in Part B thereof, within fifteen days of receipt of intimation from the Board; (b) the depository shall comply with the provisions of the Act, the Depositories Act, the bye-laws, agreements and these regulations; (c) the depository shall not carry on any activity whether involving deployment of funds or otherwise without prior approval of the Board:

	Provided that prior approval of the Board shall not be required in case of treasury investments if such investments are as per the investment policy approved by the governing board of depository. Provided further that a depository may carry out such activity not incidental to its activities as a depository, whether involving deployment of funds or otherwise, as may be assigned to the depository by the Central Government or by a regulator in the financial sector, through the establishment of Strategic Business Unit(s) specific to each activity with the prior approval of the Board and subject to such conditions as may be prescribed by the Board, including transfer of such activity to a separate company within such time as may be specified by the Board having regard to the matters which are relevant to the efficient and orderly function of the Depository as mentioned in regulation 14. Explanation: For the purposes of this clause, a Strategic Business Unit shall be an organizational unit of a company with its own mission, objectives and business strategy that is given the responsibility to serve the particular demands of one business area with appropriate technological, financial and other segregations. (d) the shareholding of the applicant in the depository shall be locked-in for a period of five years from the date of grant of registration by the Board. (e) the depository complies with the shareholding and governance structure requirements specified in these regulations; (f) if any information previously submitted by the depository or the applicant to the Board is found to be false or misleading in any material particular, or if there is any change in such information, the depository shall forthwith inform the Board in writing; (g) the depository shall redress the grievances of the participants and the beneficial owners within thirty days of the date of receipt of any complaint from a participant or a beneficial owner and keep the Board informed about the number and the nature of redressals; (h) the depository shall make an application for commencement of business under regulation 11 within one year from the date of grant of certificate of registration under this regulation; and (i) the depository shall amend its bye-laws from time to time as may be directed by the Board; (j) any other condition as the Board may deem fit in the interest of securities market.
PROCEDURE WHERE CERTIFICATE OF REGISTRATION IS NOT GRANTED (REGULATION 10)	1) Where an application for the grant of certificate of registration under regulation 3 does not satisfy the requirements specified in regulation 7, the Board shall reject the application after giving the applicant an opportunity of being heard. (2) The decision of the Board to reject the application shall be communicated to the applicant in writing within thirty days of such decision, stating therein the grounds on which the application has been rejected.
ELIGIBILITY REQUIREMENT (REGULATION 14)	(1) The Board shall take into account for considering grant of certificate of commencement of business, all matters which are relevant to the efficient and orderly functioning of the depository and in particular, the following, namely, whether—

	(a) the depository has a <u>net worth</u> of not less than rupees one hundred crores; (b) the <u>bye-laws</u> of the depository have been approved by the Board; (c) the <u>automatic data processing systems</u> of the depository have been <u>protected</u> against unauthorised access, alteration, destruction, disclosure or dissemination of records and data; (d) the <u>network</u> through which continuous electronic means of communications <u>are established</u> between the depository, participants, issuers and issuers' agents is secure against unauthorised entry or access; (e) the depository has established <u>standard transmission and encryption</u> formats for electronic communications of data between the depository, participants, issuers and issuers' agents; (f) the <u>physical or electronic access</u> to the premises, facilities, automatic data processing systems, data storage sites and facilities including back up sites and facilities and to the electronic data communication network connecting the depository, participants, issuers and issuers' agents <u>is controlled, monitored and recorded</u>; (g) the depository has a <u>detailed operations manual</u> explaining all aspects of its functioning, including the interface and method of transmission of information between the depository, issuers, issuers' agents, participants and beneficial owners; (h) the depository has established <u>adequate procedures and facilities</u> to ensure that its records are protected against loss or destruction and arrangements have been made for maintaining back up facilities at a location different from that of the depository; (i) the depository has made <u>adequate arrangements</u> including insurance for indemnifying the beneficial owners for any loss that may be caused to such beneficial owners by the wrongful act, negligence or default of the depository or its participants or of any employee of the depository or participant; and (j) the grant of certificate of commencement of business is in the interest of <u>investors in the securities market</u>. (2) The Board shall, before granting a certificate of commencement of business under this Chapter make a <u>physical verification of the infrastructure facilities and systems</u> established by the depository.
NETWORTH CERTIFICATE (REGULATION 15)	(1) Every depository shall <u>maintain networth</u> as specified under regulation 14 (1) (a) at all times and <u>submit an audited networth certificate</u> from the statutory auditor on a yearly basis, by the thirtieth day of September of every year for the preceding financial year. Explanation: For the purposes of this regulation, 'networth of a depository' means the aggregate value of paid up equity share capital and free reserves (excluding statutory funds, benefit funds and reserves created out of revaluation) reduced by the investments in businesses, whether related or unrelated, aggregate value of accumulated losses and deferred expenditure not written off, including miscellaneous expenses not written off. (2) Every depository shall within one month of the date of the holding of its annual general meeting, furnish to the Board a copy of its audited balance-sheet and profit and loss account for the preceding financial year.

SHAREHOLDING IN A DEPOSITORY (REGULATION 21)	(1) No person <u>resident in India</u> shall at any time, directly or indirectly, either individually or together with persons acting in concert, acquire or hold more than <u>five percent of the paid up equity share capital</u> in a Depository: Provided that,— (i) a stock exchange; (ii) a depository; (iii) a banking company; (iv) an insurance company; and (v) a public financial institution, may acquire or hold, either directly or indirectly, either individually or together with persons acting in concert, <u>upto fifteen percent of the paid up equity share capital</u> of a Depository. (2) No person <u>resident outside India</u>, directly or indirectly, either individually or together with persons acting in concert, shall acquire or hold more than <u>five percent of the paid up equity share capital</u> in a Depository: Provided further that,- (i) a foreign stock exchange; (ii) a foreign depository; (iii) a foreign banking company; (iv) a foreign insurance company; (v) a foreign commodity derivatives exchange; and (vi) a bilateral or multilateral financial institution approved by the Central Government, may acquire or hold, either directly or indirectly, either individually or together with persons acting in concert, <u>upto fifteen percent of the paid up equity share capital</u> of a Depository. Explanation: For the purposes of proviso to sub-regulation (2), the persons referred to in clauses (i) to (vi) shall mean persons recognised/ incorporated outside India. (3) Subject to the limits as otherwise prescribed by the Central Government from time to time, the combined holding of <u>all persons resident outside India</u> in the paid up equity share capital of a depository shall not exceed, at any time, <u>forty-nine percent of its total paid up equity share capital</u>. (Overall Limit for persons resident outside India)
CODE OF CONDUCT FOR DEPOSITORIES	Refer Standard Code of Conduct Format Given at the end of these notes.
RECORDS TO BE MAINTAINED (REGULATION 54)	(1) Every depository shall maintain the following records and documents, namely :— (a) records of securities dematerialised and rematerialised; (b) the names of the transferor, transferee, and the dates of transfer of securities; (c) a register and an index of beneficial owners; (d) details of the holding of the securities of beneficial owners as at the end of each day; (e) records of instructions received from and sent to participants, issuers, issuers' agents and beneficial owners; (f) records of approval, notice, entry and cancellation of pledge or hypothecation, as the case may be; (g) details of participants; (h) details of securities declared to be eligible for dematerialisation in the depository; and (i) such other records as may be specified by the Board for carrying on the activities as a depository.

	(2) Every depository <u>shall intimate the Board the place</u> where the records and documents are maintained. (3) Subject to the provisions of any other law the depository shall preserve records and documents for a <u>minimum period of eight years</u>.
AUDIT (REGULATION 76)	(1) Every issuer shall <u>submit audit report on a quarterly basis</u>, starting from September 30, 2003, to the <u>concerned stock exchanges</u> audited by a <u>qualified Chartered Accountant or a practicing Company Secretary</u>, for the purposes of reconciliation of the total issued capital, listed capital and capital held by depositories in dematerialized form, the details of changes in share capital during the quarter and the in-principle approval obtained by the issuer from all the stock exchanges where it is listed in respect of such further issued capital. (2) The audit report under sub-regulation (1) shall also give the <u>updated status</u> of the register of members of the issuer and confirm that securities have been dematerialized as per requests within twenty one days from the date of receipt of requests by the issuer and where the dematerialization has not been effected within the said stipulated period, the report shall disclose the reasons for such delay. (3) The issuer shall immediately bring to the notice of the depositories and the stock exchanges, any difference observed in its issued, listed, and the capital held by depositories in dematerialised form.
MANNER OF CREATION OF PLEDGE OR HYPOTHECATION (REGULATION 79)	(1) If a beneficial owner intends to create a pledge on a security owned by him he shall <u>make an application</u> to the depository <u>through the participant</u> who has his account in respect of such securities. (2) The participant after satisfaction that the securities are available for pledge <u>shall make a note</u> in its records of the notice of pledge and forward the application to the depository. (3) <u>Within fifteen days</u> of receipt of the application, the depository shall after concurrence of the pledgee through its participant, <u>create and record the pledge</u> and send an intimation of the same to the participants of the pledger and the pledgee. (4) On receipt of the intimation under sub-regulation (3) the participants of both the pledger and the pledgee <u>shall inform</u> the pledger and the pledgee respectively of the entry of creation of the pledge. (5) If the depository does not create the pledge, it shall send along with the reasons and intimation to the participants of the pledger and the pledgee. (6) The entry of pledge made under sub-regulation (3) <u>may be cancelled</u> by the depository if pledger or the pledgee makes an application to the depository through its participant: Provided that no entry of pledge shall be cancelled by the depository <u>without prior concurrence of the pledgee</u>. (7) The depository on the cancellation of the entry of pledge shall inform the participant of the pledger. (8) Subject to the provisions of the pledge document, the pledgee may <u>invoke the pledge</u> and on such invocation, the depository shall <u>register the pledgee as beneficial owner</u> of such securities and amend its records accordingly.

	(9) After amending its records under sub-regulation (8) the depository shall <u>immediately inform the participants</u> of the pledger and pledgee of the change who in turn shall make the necessary changes in their records and inform the pledger and pledgee respectively. (10) If a beneficial owner intends to create a hypothecation on a security owned by him he may do so in accordance with the provisions of sub-regulations (1) to (9). <i>(Same procedure for Pledge & Hypothecation)</i> (11) The provisions of sub-regulations (1) to (9) shall mutatis mutandis apply in such cases of hypothecation: Provided that the depository before registering the hypothecatee as a beneficial owner shall obtain the prior concurrence of the hypothecator. (12) No transfer of security in respect of which a notice or entry of pledge or hypothecation is in force shall be effected by a participant without the concurrence of the pledgee or the hypothecatee, as the case may be. <i>(Restriction on Transfer of Pledged Securities)</i>
LISTING (REGULATION 83)	(1) Subject to the provisions of applicable laws in force, a depository may apply for listing of its securities on a recognised stock exchange if,— (a) it is <u>compliant with the provisions</u> of these regulations particularly those relating to ownership and governance; (b) it has <u>completed three years</u> of continuous depository operations immediately preceding the date of application of listing; and (c) it has <u>obtained approval</u> of the Board. (2) The Board may specify such conditions as it may deem fit in the interest of the securities market including those in relation to transfer of shares held by any person. (3) A depository or its associates shall not list its securities on a recognized stock exchange that is an associate of the depository.
BOARD'S RIGHT TO INSPECT (REGULATION 84)	The Board may appoint one or more persons as inspecting officer to undertake inspection of the books of account, records, documents and infrastructure, systems and procedures, or to investigate the affairs of a depository, a participant, a beneficial owner an issuer or its agent for any of the following purposes, namely:— (a) to ensure that the books of account are being maintained by the depository, participant, issuer or its agent in the manner specified in these regulations; (b) to look into the complaints received from the depositories, participants, issuers, issuers' agents, beneficial owners or any other person; (c) to ascertain whether the provisions of the Act, the Depositories Act, the bye-laws, agreements and these regulations are being complied with by the depository, participant, beneficial owner, issuer or its agent; (d) to ascertain whether the systems, procedures and safeguards being followed by a depository, participant, beneficial owner, issuer or its agent are adequate; (e) to suo motu ensure that the affairs of a depository, participant, beneficial owner, issuer or its agent, are being conducted in a manner which are in the interest of the investors or the securities market.

ELIGIBILITY REQUIREMENT FOR DEPOSITORY PARTICIPANT REGISTRATION (REGULATION 35)	(a) the applicant belongs to one of the following categories,— (i) a <u>public financial institution</u> as defined in section 2(72) of the Companies Act, 2013; (ii) a <u>bank</u> included for the time being in the Second Schedule to the Reserve Bank of India Act, 1934; (iii) a <u>foreign bank</u> operating in India with the approval of the Reserve Bank of India; (iv) a <u>State Financial Corporation</u> established under the provisions of section 3 of the State Financial Corporations Act, 1951 (63 of 1951); (v) an institution engaged in providing <u>financial services</u>, promoted by any of the institutions mentioned in sub-clauses (i), (ii), (iii) and (iv), jointly or severally; (vi) a <u>custodian</u> of securities who has been granted a certificate of registration by the Board under sub-section (1A) of section 12 of the Act; (vii) a <u>clearing corporation</u> or a clearing house of a stock exchange; (viii) a <u>stock broker</u> who has been granted a certificate of registration by the Board under sub-section (1) of section 12 of the Act : Provided that the stock broker shall have a minimum net worth of rupees <u>fifty lakhs</u> and the aggregate value of portfolio of securities of the beneficial owners held in dematerialised form in a depository through him, shall not exceed hundred times of the net worth of the stock broker: Provided further that if the stock broker seeks to act as a participant in more than one depository, he shall comply with the criteria specified in the first proviso separately for each such depository: Provided also that where the stock broker has a minimum net worth of rupees ten crore, the limits on the aggregate value of the portfolio of securities of the beneficial owners held in dematerialized form in a depository through him shall not be applicable; (ix) a <u>non-banking finance company</u>, having a net worth of not less than rupees fifty lakhs: Provided that such company shall act as a participant only on behalf of itself and not on behalf of any other person: Provided further that a non-banking finance company may act as a participant on behalf of any other person, if it has a net worth of rupees fifty crore in addition to the net worth specified by any other authority; (x) a <u>registrar to an issue or share transfer agent</u> who has a minimum net worth of rupees ten crores and who has been granted a certificate of registration by the Board under sub-section (1) of section 12 of the Act; (b) the applicant is eligible to be admitted as a participant of the depository through which it has made the application to the Board; (c) the applicant has adequate infrastructure, systems, safeguards and trained staff to carry on activity as a participant;
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	(d) the applicant is a fit and proper person; and (e) the grant of certificate of registration is in the interests of investors in the securities market.
ACTING AS PARTICIPANT IN MORE THAN ONE DEPOSITORY (REGULATION 38)	(1) A participant who has been granted a certificate of registration <u>may act</u> as a participant of another depository <u>without obtaining separate certificate</u> of registration subject to approval by such other depository. (2) Such a participant who desires to act as a participant of another depository shall apply to such other depository for approval in the manner as specified by the Board. (3) On receipt of an application under sub-regulation (2), the depository shall, on being satisfied with the compliance of the provisions of these regulations and other relevant eligibility requirements specified by the Board, grant approval to act as its participant subject to payment of registration fees specified in Part A of Second Schedule in the manner specified in Part B thereof, by the participant <u>within fifteen days</u> of the receipt of intimation from the depository. (4) The depository shall <u>inform the Board</u> about the approval granted under sub-regulation (5) A participant who has been granted approval under sub-regulation (3) shall pay annual fees separately for each depository. (6) To keep the registration in force, a participant who has been granted approval under sub-regulation (3) shall pay registration fees for every five years from the sixth year of the date of grant of approval by the depository.
COMPOSITION OF GOVERNING BOARD (REGULATION 24)	(1) The governing board of every depository shall include: (a) shareholder directors; (b) public interest directors; and, (c) managing director. (2) Subject to prior approval of the Board, the chairperson shall be elected by the governing board from amongst the <u>public interest directors</u>. (3) The number of public interest directors shall not be less than the number of shareholder directors on the governing board of a Depository. (4) The number of public interest directors shall not be less than the number of shareholder directors to constitute the quorum for the meeting of the governing board. (5) The voting on a resolution in the meeting of the governing board shall be valid only when the number of public interest directors that have cast their vote on such resolution is equal to or more than the number of shareholder directors who have cast their vote on such resolution. (6) The casting vote in the meetings of the governing board of the depository shall be with the chairperson of the governing board. (7) The managing director shall be included in the category of shareholder directors. (8) Any employee of a depository may be appointed on the governing board in addition to the managing director, and such director shall be deemed to be a shareholder director:

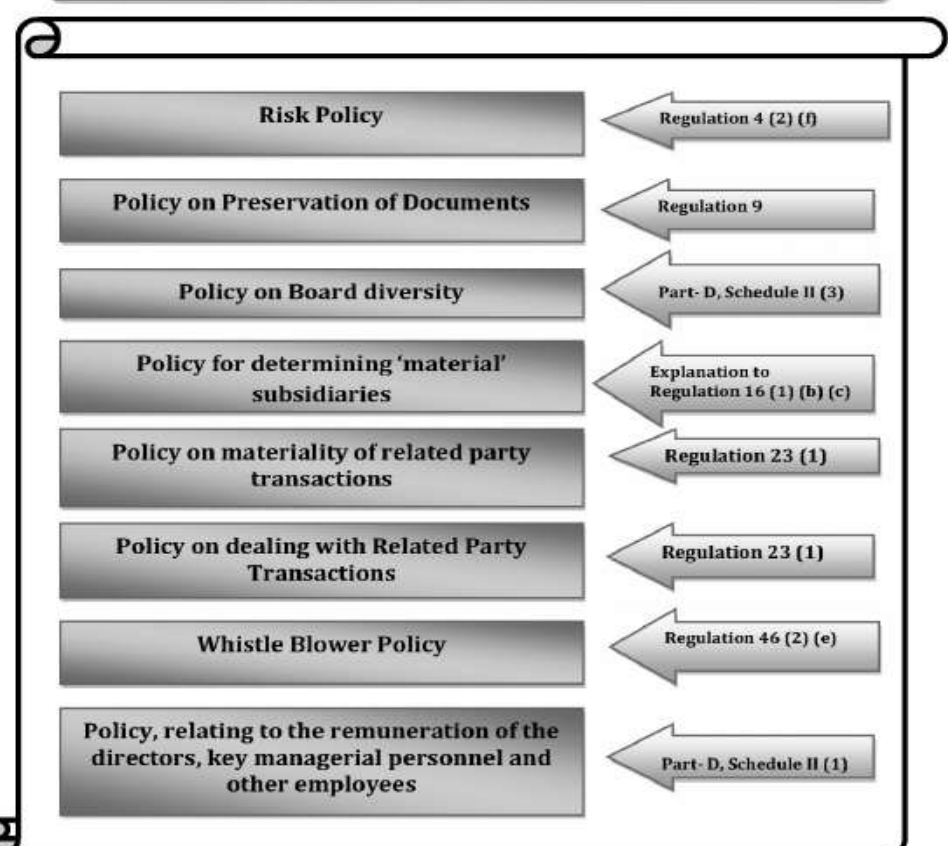
	(9) No depository participant or their associates and agents, irrespective of the depository of which they are members, shall be on the governing board of a depository. (10) A person who is a director in an entity, that itself is a depository participant or has associate(s) as depository participant, he/she will be deemed to be a depository participant: Provided a person shall not be deemed to be Depository Participant or their associate for the purpose of sub-regulation 10, if he/she is on the board of a Public Financial Institution or Bank which is in public sector, or which has no identifiable ultimate promoter, or the ultimate promoter is in public sector or has well diversified shareholding, and such Public Financial Institution or Bank or its associate is a Depository Participant: Provided further that the independent directors of associates of Public Financial Institution or Bank in public sector, who is a Depository Participant and where the majority shareholding is that of such Public Financial Institution or Bank in public sector, shall not be deemed to be Depository Participant for the purpose of sub-regulation 10. (11) The appointment of director shall be subject to fulfillment of other requirements and satisfaction of the Board. (12) Depository shall monitor and ensure the compliance of sub-regulation 9 on continuous basis, to ensure that directors appointed, on their governing board, do not get associated with Depository Participant after approval and appointment. (13) No foreign portfolio investor shall have any representation in the governing board of a depository.
CONDITIONS OF APPOINTMENT OF DIRECTORS (REGULATION 25)	(1) The appointment and re-appointment of all shareholder directors on the governing board of every depository shall be with the <u>prior approval of the Board.</u> (2) The <u>public interest directors</u> on the governing board of a depository shall be <u>nominated by the Board.</u> (3) Public interest directors shall be nominated for a <u>term of three years</u>, extendable by another term of three years, subject to performance review in the manner as may be specified by the Board: Provided that post the expiry of term(s) at a depository, a public interest director may be nominated for a term of three years in other depository or recognized stock exchange or a recognized clearing corporation, <u>only after a cooling-off period of one year.</u> Provided further that a person shall be nominated as a public interest director for a <u>maximum of three terms</u> across a depository / a recognized stock exchange / a recognized clearing corporation, subject to a <u>maximum age limit of seventy five years.</u> (4) A public interest director on the board of a depository shall not act simultaneously as director on the board of its subsidiary or on the board of any other depository or recognized stock exchange or recognized clearing corporation or on the board of subsidiary of such other depository or recognized stock exchange or recognized clearing corporation.

	(5) A public interest director on the board of a depository shall not act simultaneously as member on more than five committees of that depository. (6) A public interest director on the board of a depository shall keep its governing board apprised of any conflict of interest, which may arise as a result of the public interest director providing services, either directly or indirectly, to depository participants or their associates and agents. (7) No public interest director shall become a shareholder director unless there is a cooling-off period of three years after ceasing to be a public interest director (8) No public interest director on the governing board of a depository shall become a director on the board of subsidiary of that depository unless there is a cooling-off period of three years after ceasing to be a public interest director. (9) Public interest directors shall be remunerated only by way of payment of sitting fees as admissible to independent directors in the Companies Act, 2013.
APPOINTMENT OF MANAGING DIRECTOR	(1) The appointment, renewal of appointment and termination of service of the managing director of a depository shall be subject to <u>prior approval of the Board.</u> (2) Every depository shall, subject to the guidelines issued by the Board from time to time, determine the qualification, manner of appointment, terms and conditions of appointment and other procedural formalities relating to the selection/appointment of the managing director. (3) The appointment of the managing director shall be for a <u>term not exceeding five years:</u> Provided that post the completion of first term as Managing Director, the depository shall conduct the appointment process afresh: Provided further that a person may be appointed as Managing Director by the depository for a <u>maximum of two terms not exceeding five years each subject to a maximum age limit of sixty five years.</u> (4) The managing director of a depository shall not— (a) be a shareholder or an associate of a shareholder of a depository or shareholder of an associate of a depository; (b) be a depository participant, or his associate and agent, or shareholder of a depository participant or shareholder of an associate and agent of a depository participant; or (c) hold any position concurrently in the subsidiary of a depository or in any other entity associated with a depository: Provided that the managing director of a depository may be appointed on the governing board, but not as managing director, of the subsidiary or associate of a depository. (5) The managing director shall be <u>liable for removal</u> or termination of services by the governing board of the depository with the prior approval of the Board <u>for failure to give effect to the directions, guidelines and other orders issued by the Board,</u> or the rules, instructions, the articles of association and bye-laws of the depository. (6) The Board <u>may suo motu remove</u> or terminate the appointment of the

	managing director if deemed fit in the interest of securities market: Provided that no managing director shall be removed unless he has been given a reasonable opportunity of being heard.
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UNIT 19: LISTING & DELISTING OF SECURITIES

LISTING OF SECURITIES	Only public companies are allowed to list their securities in the stock exchange. Private Limited companies cannot get listing facility. They should first convert themselves into public limited companies and their Articles of Association should also contain prohibitions as laid down in the SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 ('LODR Regulations') and as applicable to public limited companies.
TYPES OF LISTING (Dec 2016)	Listing of securities falls under 5 groups – Initial Listing If the shares or securities are to be listed for the first time by a company on a stock exchange is called initial listing. Listing for Public Issue When a company whose shares are listed on a stock exchange comes out with a public issue of securities, it has to list such issue with the stock exchange. Listing for Rights Issue When companies whose securities are listed on the stock exchange issue securities to existing shareholders on rights basis, it has to list such rights issues on the concerned stock exchange. Listing of Bonus Shares Shares issued as a result of capitalisation of profit through bonus issue shall list such issues also on the concerned stock exchange. Listing for merger or amalgamation When new shares are issued by an amalgamated company to the shareholders of the amalgamating company, such shares are also required to be listed on the concerned stock exchange.
BENEFITS OF LISTING	The following benefits are available when securities are listed by a company in the stock exchange– (1) Public image of the company is enhanced. (2) The liquidity of the security is ensured making it easy to buy and sell the securities in the stock exchange. (3) Tax concessions are made available both to the investors and the companies. (4) Listing procedure compels company management to disclose important information to the investors enabling them to make crucial decisions with regard to keeping or disposing of such securities. (5) Listed companies command better support such as loans and investments from Banks and FIs. June 2017: "Listing of securities with stock exchanges is a matter of great importance for companies and investors." Comment
LISTING PROVISIONS	Listing of Securities on Indian Stock Exchanges is governed by the provisions in the SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015, Companies Act, 2013, the Securities Contracts (Regulation) Act, 1956, the Securities Contracts (Regulation) Rules, 1957, Rules, bye laws, regulations of concerned stock exchange and circulars/guidelines issued by the Central Government and SEBI.

POLICIES TO BE FRAMED UNDER LODR (June 2017)	POLICIES UNDER LODR REGULATION POLICIES required to be framed Under LODR Regulations  The diagram illustrates the following policies and their corresponding regulatory references: Risk Policy → Regulation 4 (2) (f) Policy on Preservation of Documents → Regulation 9 Policy on Board diversity → Part- D, Schedule II (3) Policy for determining 'material' subsidiaries → Explanation to Regulation 16 (1) (b) (c) Policy on materiality of related party transactions → Regulation 23 (1) Policy on dealing with Related Party Transactions → Regulation 23 (1) Whistle Blower Policy → Regulation 46 (2) (e) Policy, relating to the remuneration of the directors, key managerial personnel and other employees → Part- D, Schedule II (1)
WHISTLE BLOWER POLICY (JUNE 2016, JUNE 2015)	Whistle blower policy means a policy framed by the company for reporting unethical behavior or any concern and investigation in it as well as protection of the whistle blower. Every Listing Company is required to frame a Whistle Blower Policy as per SEBI LODR 2015. <i>The listed entity shall devise an effective whistle blower mechanism enabling stakeholders, including individual employees and their representative bodies, to freely communicate their concerns about illegal or unethical practices.</i>

SEBI (LISTING OBLIGATIONS & DISCLOSURE REQUIREMENTS) REGULATIONS, 2015

DEFINITIONS	“fugitive economic offender” shall mean an individual who is declared a fugitive economic offender under section 12 of the Fugitive Economic Offenders Act, 2018 (Inserted w.e.f. 16.11.2018) “security receipts” shall have the meaning assigned to it under the Securities and Exchange Board of India (Issue and Listing of Securitised Debt Instruments and Security Receipts) Regulations, 2008; (Inserted w.e.f. 06.09.2018)
APPLICABILITY (3) (Important)	Unless otherwise provided, these regulations shall apply to the listed entity who has listed any of the following designated securities on recognized stock exchange(s): (a) specified securities listed on main board or SME Exchange or Innovators Growth platform; (b) non-convertible debt securities, non-convertible redeemable preference shares, perpetual debt instrument, perpetual non-cumulative preference shares; (c) Indian depository receipts; (d) securitized debt instruments; (da) Security Receipts; (e) units issued by mutual funds; (f) any other securities as may be specified by the Board. (Inserted w.e.f. 06.09.2018)
CHAPTER III: COMMON OBLIGATIONS OF LISTED ENTITIES	
COMPLIANCE OFFICER AND HIS OBLIGATIONS (6) (Important)	(1) A listed entity shall appoint a qualified company secretary as the compliance officer. (2) The compliance officer of the listed entity shall be responsible for- (a) Ensuring conformity with the regulatory provisions applicable to the listed entity in letter and spirit. (b) co-ordination with and reporting to the Board, recognized stock exchange(s) and depositories with respect to compliance with rules, regulations and other directives of these authorities in manner as specified from time to time. (c) Ensuring that the correct procedures have been followed that would result in the correctness, authenticity and comprehensiveness of the information, statements and reports filed by the listed entity under these regulations. (d) monitoring email address of grievance redressal division as designated by the listed entity for the purpose of registering complaints by investors: Provided that the requirements of this regulation shall not be applicable in the case of units issued by mutual funds which are listed on recognized stock exchange(s) but shall be governed by the provisions of the Securities and Exchange Board of India (Mutual Funds) Regulations, 1996.
SHARE TRANSFER AGENT (7) (Important)	(1) The listed entity shall appoint a share transfer agent or manage the share transfer facility in-house: Provided that, in the case of in-house share transfer facility, as and when the total number of holders of securities of the listed entity exceeds one lakh, the listed entity shall either register with the Board as a Category II share transfer agent or appoint Registrar to an issue and share transfer agent registered with the Board. (2) The listed entity shall ensure that all activities in relation to both physical and

	electronic share transfer facility are maintained either in house or by Registrar to an issue and share transfer agent registered with the Board. (3) The listed entity shall submit a compliance certificate to the exchange, duly signed by both the compliance officer of the listed entity and the authorized representative of the share transfer agent, wherever applicable, within one month of end of each half of the financial year, certifying compliance with the requirements of sub- regulation (2). (4) In case of any change or appointment of a new share transfer agent, the listed entity shall enter into a tripartite agreement between the existing share transfer agent, the new share transfer agent and the listed entity, in the manner as specified by the Board from time to time: Provided that in case the existing share transfer facility is managed in-house, the agreement referred above shall be entered into between the listed entity and the new share transfer agent. (5) The listed entity shall intimate such appointment, referred to in sub-regulation (4), to the stock exchange(s) within seven days of entering into the agreement. (6) The agreement referred to in sub-regulation (4) shall be placed in the subsequent meeting of the board of directors: Provided that the requirements of this regulation shall not be applicable to the units issued by mutual funds that are listed on recognized stock exchange(s).
CO-OPERATION WITH INTERMEDIARIES REGISTERED WITH BOARD (8)	The listed entity, wherever applicable, shall co-operate with and submit correct and adequate information to the intermediaries registered with the Board such as credit rating agencies, registrar to an issue and share transfer agents, debenture trustees etc., within timelines and procedures specified under the Act, regulations and circulars issued there under: Provided that requirements of this regulation shall not be applicable to the units issued by mutual funds listed on a recognized stock exchange(s) for which the provisions of the Securities and Exchange Board of India (Mutual Funds) Regulations, 1996 shall be applicable.
PRESERVATION OF DOCUMENTS (9) (Important)	The listed entity shall have a policy for preservation of documents, approved by its board of directors, classifying them in at least two categories as follows- (a) documents whose preservation shall be permanent in nature ; (b) documents with preservation period of not less than eight years after completion of the relevant transactions: Provided that the listed entity may keep documents specified in clauses (a) and (b) in electronic mode.
FILING OF INFORMATION (10)	(1) The listed entity shall file the reports, statements, documents, filings and any other information with the recognized stock exchange(s) on the electronic platform as specified by the Board or the recognized stock exchange(s). (2) The listed entity shall put in place infrastructure as required for compliance with sub-regulation (1).
SCHEME OF ARRANGEMENT (11)	The listed entity shall ensure that any scheme of arrangement /amalgamation /merger /reconstruction /reduction of capital etc. to be presented to any Court or Tribunal does not in any way violate, override or limit the provisions of securities laws or requirements of the stock exchange(s):

	Provided that this regulation shall not be applicable for the units issued by Mutual Fund which are listed on a recognized stock exchange(s).
PAYMENT OF DIVIDEND OR INTEREST OR REDEMPTION OR REPAYMENT (12)	The listed entity shall use any of the electronic mode of payment facility approved by the Reserve Bank of India, in the manner specified in Schedule I, for the payment of the following: (a) dividends; (b) interest; (c) redemption or repayment amounts: Provided that where it is not possible to use electronic mode of payment, payable-at-par warrants or cheque may be issued: Provided further that where the amount payable as dividend exceeds one thousand and five hundred rupees, the payable-at-par warrants or cheque shall be sent by speed post.
GRIEVANCE REDRESSAL MECHANISM (13) (Important)	(1) The listed entity shall ensure that adequate steps are taken for expeditious redressal of investor complaints. (2) The listed entity shall ensure that it is registered on the SCORES platform or such other electronic platform or system of the Board as shall be mandated from time to time, in order to handle investor complaints electronically in the manner specified by the Board. (3) The listed entity shall file with the recognized stock exchange(s) on a quarterly basis, within twenty one days from the end of each quarter, a statement giving the number of investor complaints pending at the beginning of the quarter, those received during the quarter, disposed of during the quarter and those remaining unresolved at the end of the quarter. (4) The statement as specified in sub-regulation (3) shall be placed, on quarterly basis, before the board of directors of the listed entity.
CHAPTER IV: OBLIGATIONS OF LISTED ENTITIES WHICH HAS LISTED ITS SPECIFIED SECURITIES	
DEFINITIONS (16)	“material subsidiary” shall mean a subsidiary, whose income or net worth exceeds twenty percent of the consolidated income or net worth respectively, of the listed entity and its subsidiaries in the immediately preceding accounting year. <u>Explanation:</u> The listed entity shall formulate a policy for determining ‘material’ subsidiary.
APPLICABILITY (15)	(1) The provisions of this chapter shall apply to a listed entity which has listed its specified securities on any recognised stock exchange(s) either on the main board or on SME Exchange or on Innovators Growth platform. (2) The Corporate Governance Compliance as specified in 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27 and clause b to I of sub regulation 2 of regulation 46 and Para C, D and E of Schedule V shall not apply to: (a) the listed entity having paid up equity share capital not exceeding rupees ten crore and net worth not exceeding rupees twenty five crore, as on the last day of the previous financial year: (b) the listed entity which has listed its specified securities on the SME Exchange; (2A) The provisions as specified in regulation 17 shall not be applicable during

	the insolvency resolution process period in respect of a listed entity which is undergoing corporate insolvency resolution process under the Insolvency Code; <i>(Inserted w.e.f. 31.05.2018)</i> (2B) The provisions as specified in regulations 18, 19, 20 and 21 shall not be applicable during the insolvency resolution process period in respect of a listed entity which is undergoing corporate insolvency resolution process under the Insolvency Code; <i>(Inserted w.e.f. 31.05.2018)</i>
BOARD OF DIRECTORS (17))	(1) The composition of board of directors of the listed entity shall be as follows: (a) board of directors shall have an optimum combination of executive and non-executive directors with at least one woman director and not less than fifty percent. of the board of directors shall comprise of non-executive directors; Provided that the Board of directors of the top 500 listed entities shall have at least one independent woman director by April 1, 2019 and the Board of directors of the top 1000 listed entities shall have at least one independent woman director by April 1, 2020; Explanation: The top 500 and 1000 entities shall be determined on the basis of market Capitalisation, as at the end of the immediate previous financial year. <i>(Inserted w.e.f 01.04.2019)</i> (b) where the chairperson of the board of directors is a non-executive director, at least one-third of the board of directors shall comprise of independent directors and where the listed entity does not have a regular non-executive chairperson, at least half of the board of directors shall comprise of independent directors: Provided that where the regular non-executive chairperson is a promoter of the listed entity or is related to any promoter or person occupying management positions at the level of board of director or at one level below the board of directors, at least half of the board of directors of the listed entity shall consist of independent directors. Explanation.-For the purpose of this clause, the expression "related to any promoter" shall have the following meaning: (i) if the promoter is a listed entity, its directors other than the independent directors, its employees or its nominees shall be deemed to be related to it; (ii) if the promoter is an unlisted entity, its directors, its employees or its nominees shall be deemed to be related to it. c) The board of directors of the top 1000 listed entities (with effect from April 1, 2019) and the top 2000 listed entities (with effect from April 1, 2020) shall comprise of not less than six directors. Explanation: The top 1000 and 2000 entities shall be determined on the basis of market capitalisation as at the end of the immediate previous financial year. (1A) No listed entity shall appoint a person or continue the directorship of any person as a non-executive director who has attained the age of seventy five years unless a special resolution is passed to that effect, in which case the explanatory statement annexed to the notice for such motion shall indicate the justification for appointing such a person. <i>(Inserted w.e.f 01.04.2019)</i>

(1B). With effect from April 1, 2020, the top 500 listed entities shall ensure that the Chairperson of the board of such listed entity shall –

(a) be a non-executive director;

(b) not be related to the Managing Director or the Chief Executive Officer as per the definition of the term “relative” defined under the Companies Act, 2013: Provided that this sub-regulation shall not be applicable to the listed entities which do not have any identifiable promoters as per the shareholding pattern filed with stock exchanges.

Explanation -The top 500 entities shall be determined on the basis of market Capitalisation, as at the end of the immediate previous financial year. (Inserted w.e.f 01.04.2020)

(2)The board of directors shall meet at least four times a year, with a maximum time gap of one hundred and twenty days between any two meetings.

(2A) The quorum for every meeting of the board of directors of the top 1000 listed entities with effect from April 1, 2019 and of the top 2000 listed entities with effect from April 1, 2020 shall be one-third of its total strength or three directors, whichever is higher, including at least one independent director.

Explanation I –For removal of doubts, it is clarified that the participation of the directors by video conferencing or by other audio-visual means shall also be counted for the purposes of such quorum.

Explanation II -The top 1000 and 2000 entities shall be determined on the basis of market Capitalisation, as at the end of the immediate previous financial year.

(3)The board of directors shall periodically review compliance reports pertaining to all laws applicable to the listed entity, prepared by the listed entity as well as steps taken by the listed entity to rectify instances of non-compliances.

(4)The board of directors of the listed entity shall satisfy itself that plans are in place for orderly succession for appointment to the board of directors and senior management.

(5)(a) The board of directors shall lay down a code of conduct for all members of board of directors and senior management of the listed entity.(b)The code of conduct shall suitably incorporate the duties of independent directors as laid down in the Companies Act, 2013.

(6)(a) The board of directors shall recommend all fees or compensation, if any, paid to non-executive directors, including independent directors and shall require approval of shareholders in general meeting.

(b)The requirement of obtaining approval of shareholders in general meeting shall not apply to payment of sitting fees to non-executive directors, if made within the limits prescribed under the Companies Act, 2013 for payment of sitting fees without approval of the Central Government

(c)The approval of shareholders mentioned in clause (a),shall specify the limits for the maximum number of stock options that may be granted to non-

	executive directors, in any financial year and in aggregate. (ca) The approval of shareholders by special resolution shall be obtained every year, in which the annual remuneration payable to a single non-executive director exceeds fifty per cent of the total annual remuneration payable to all non-executive directors, giving details of the remuneration thereof. (Inserted w.e.f 01.04.2019) (d) Independent directors shall not be entitled to any stock option. (e) The fees or compensation payable to executive directors who are promoters or members of the promoter group, shall be subject to the approval of the shareholders by special resolution in general meeting, if- (i) the annual remuneration payable to such executive director exceeds rupees 5 crore or 2.5 per cent of the net profits of the listed entity, whichever is higher; or (ii) where there is more than one such director, the aggregate annual remuneration to such directors exceeds 5 per cent of the net profits of the listed entity: Provided that the approval of the shareholders under this provision shall be valid only till the expiry of the term of such director. Explanation: For the purposes of this clause, net profits shall be calculated as per section 198 of the Companies Act, 2013. (Inserted w.e.f 01.04.2019) (7) The minimum information to be placed before the board of directors is specified in Part A of Schedule II. (8) The chief executive officer and the chief financial officer shall provide the compliance certificate to the board of directors as specified in Part B of Schedule II. (9)(a) The listed entity shall lay down procedures to inform members of board of directors about risk assessment and minimization procedures. (b) The board of directors shall be responsible for framing, implementing and monitoring the risk management plan for the listed entity. (10) The evaluation of independent directors shall be done by the entire board of directors which shall include – (a) performance of the directors; and (b) fulfillment of the independence criteria as specified in these regulations and their independence from the management: Provided that in the above evaluation, the directors who are subject to evaluation shall not participate. (Substituted w.e.f 01.04.2019) (11). The statement to be annexed to the notice as referred to in sub-section (1) of section 102 of the Companies Act, 2013 for each item of special business to be transacted at a general meeting shall also set forth clearly the recommendation of the board to the shareholders on each of the specific items. (Inserted w.e.f 01.04.2019)
MAXIMUM NUMBER OF DIRECTORSHIPS (17A) W.E.F 01.04.2019	The directors of listed entities shall comply with the following conditions with respect to the maximum number of directorships, including any alternate directorships that can be held by them at any point of time:

	(1) A person shall not be a director in more than eight listed entities with effect from April 1, 2019 and in not more than seven listed entities with effect from April 1, 2020: Provided that a person shall not serve as an independent director in more than seven listed entities. (2) Notwithstanding the above, any person who is serving as a whole time director / managing director in any listed entity shall serve as an independent director in not more than three listed entities. For the purpose of this sub-regulation, the count for the number of listed entities on which a person is a director / independent director shall be only those whose equity shares are listed on a stock exchange
AUDIT COMMITTEE (18)	1) Every listed entity shall constitute a qualified and independent audit committee in accordance with the terms of reference, subject to the following: (a)The audit committee shall have minimum three directors as members. (b)Two-thirds of the members of audit committee shall be independent directors. (c)All members of audit committee shall be financially literate and at least one member shall have accounting or related financial management expertise. Explanation (1). For the purpose of this regulation, “financially literate” shall mean the ability to read and understand basic financial statements i.e. balance sheet, profit and loss account, and statement of cash flows. Explanation (2).-For the purpose of this regulation , a member shall be considered to have accounting or related financial management expertise if he or she possesses experience in finance or accounting, or requisite professional certification in accounting, or any other comparable experience or background which results in the individual’s financial sophistication, including being or having been a chief executive officer, chief financial officer or other senior officer with financial oversight responsibilities. (d)The chairperson of the audit committee shall be an independent director and he shall be present at Annual general meeting to answer shareholder queries. (e)The Company Secretary shall act as the secretary to the audit committee. (f)The audit committee at its discretion shall invite the finance director or head of the finance function, head of internal audit and a representative of the statutory auditor and any other such executives to be present at the meetings of the committee: Provided that occasionally the audit committee may meet without the presence of any executives of the listed entity. (2)The listed entity shall conduct the meetings of the audit committee in the following manner: (a)The audit committee shall meet at least four times in a year and not more than one hundred and twenty days shall elapse between two meetings. (b)The quorum for audit committee meeting shall either be two members or one third of the members of the audit committee, whichever is greater, with at least two independent directors. (c)The audit committee shall have powers to investigate any activity within its terms

	of reference, seek information from any employee, obtain outside legal or other professional advice and secure attendance of outsiders with relevant expertise, if it considers necessary. (3)The role of the audit committee and the information to be reviewed by the audit committee shall be as specified in Part C of Schedule II.
NOMINATION & REMUNERATION COMMITTEE (19)	(1) The board of directors shall constitute the nomination and remuneration committee as follows: (a)the committee shall comprise of atleast three directors ; (b)all directors of the committee shall be non-executive directors; and (c)atleast fifty percent of the directors shall be independent directors. (2)The Chairperson of the nomination and remuneration committee shall be an independent director: Provided that the chairperson of the listed entity, whether executive or non-executive, maybe appointed as a member of the Nomination and Remuneration Committee and shall not chair such Committee. (2A) The quorum for a meeting of the nomination and remuneration committee shall be either two members or one third of the members of the committee, whichever is greater, including atleast one independent director in attendance. (Inserted w.e.f 01.04.2019) (3)The Chairperson of the nomination and remuneration committee may be present at the annual general meeting, to answer the shareholders' queries; however, it shall be up to the chairperson to decide who shall answer the queries. (3A) The nomination and remuneration committee shall meet at least once in a year. (Inserted w.e.f 01.04.2019) (4)The role of the nomination and remuneration committee shall be as specified as in Part D of the Schedule II.
STAKEHOLDERS RELATIONSHIP COMMITTEE (20)	(1) The listed entity shall constitute a Stakeholders Relationship Committee to specifically look into various aspects of interest of shareholders, debenture holders and other security holders. (2)The chairperson of this committee shall be a non-executive director. (2A) At least three directors, with at least one being an independent director, shall be members of the Committee. (Inserted w.e.f 01.04.2019) (3) The Chairperson of the Stakeholders Relationship Committee shall be present at the annual general meetings to answer queries of the security holders. (Substituted w.e.f 01.04.2019) (3A)The stakeholders relationship committee shall meet at least once in a year. (Inserted w.e.f 01.04.2019) (4)The role of the Stakeholders Relationship Committee shall be as specified as in Part D of the Schedule II.

RISK MANAGEMENT COMMITTEE (21)	(1)The board of directors shall constitute a Risk Management Committee. (2)The majority of members of Risk Management Committee shall consist of members of the board of directors. (3)The Chairperson of the Risk management committee shall be a member of the board of directors and senior executives of the listed entity may be members of the committee. (3A) The risk management committee shall meet at least once in a year. (Inserted w.e.f 01.04.2019) (4)The board of directors shall define the role and responsibility of the Risk Management Committee and may delegate monitoring and reviewing of the risk management plan to the committee and such other functions as it may deem fit. such function shall specifically cover cyber security. (5)The provisions of this regulation shall be applicable to top 100 listed entities, determined on the basis of market capitalization, as at the end of the immediate previous financial year.
VIGIL MECHANISM (22)	(1) The listed entity shall formulate a vigil mechanism for directors and employees to report genuine concerns. (2) The vigil mechanism shall provide for adequate safeguards against victimization of director(s) or employee(s) or any other person who avail the mechanism and also provide for direct access to the chairperson of the audit committee in appropriate or exceptional cases.
RELATED PARTY TRANSACTIONS (23)	(1)The listed entity shall formulate a policy on materiality of related party transactions and on dealing with related party transactions including clear threshold limits duly approved by the board of directors and such policy shall be reviewed by the board of directors at least once every three years and updated accordingly: (Inserted w.e.f 01.04.2019) Explanation. -A transaction with a related party shall be considered material if the transaction(s) to be entered into individually or taken together with previous transactions during a financial year, exceeds ten percent of the annual consolidated turnover of the listed entity as per the last audited financial statements of the listed entity. (1A) Notwithstanding the above, with effect from July 01, 2019 a transaction involving payments made to a related party with respect to brand usage or royalty shall be considered material if the transaction(s) to be entered into individually or taken together with previous transactions during a financial year, exceed two percent of the annual consolidated turnover of the listed entity as per the last audited financial statements of the listed entity. (Inserted w.e.f 01.04.2019) (2)All related party transactions shall require prior approval of the audit committee. (3)Audit committee may grant omnibus approval for related party transactions proposed to be entered into by the listed entity subject to the following conditions, namely-

(a) the audit committee shall lay down the criteria for granting the omnibus approval in line with the policy on related party transactions of the listed entity and such approval shall be applicable in respect of transactions which are repetitive in nature;

(b) the audit committee shall satisfy itself regarding the need for such omnibus approval and that such approval is in the interest of the listed entity;

(c) the omnibus approval shall specify:

(i) the name(s) of the related party, nature of transaction, period of transaction, maximum amount of transactions that shall be entered into,

(ii) the indicative base price / current contracted price and the formula for variation in the price if any; and

(iii) such other conditions as the audit committee may deem fit:

Provided that where the need for related party transaction cannot be foreseen and aforesaid details are not available, audit committee may grant omnibus approval for such transactions subject to their value not exceeding rupees one crore per transaction.

(d) the audit committee shall review, atleast on a quarterly basis, the details of related party transactions entered into by the listed entity pursuant to each of the omnibus approvals given.

(e) Such omnibus approvals shall be valid for a period not exceeding one year and shall require fresh approvals after the expiry of one year:

(4) All material related party transactions shall require approval of the shareholders through resolution and no related party shall vote to approve such resolutions whether the entity is a related party to the particular transaction or not:

Provided that the requirements specified under this sub-regulation shall not apply in respect of a resolution plan approved under section 31 of the Insolvency Code, subject to the event being disclosed to the recognized stock exchanges within one day of the resolution plan being approved;

(5) The provisions of sub-regulations(2), (3) and (4) shall not be applicable in the following cases:

(a) transactions entered into between two government companies;

(b) transactions entered into between a holding company and its wholly owned subsidiary whose accounts are consolidated with such holding company and placed before the shareholders at the general meeting for approval.

Explanation. -For the purpose of clause (a), "government company(ies)" means Government company as defined in sub-section (45) of section 2 of the Companies Act, 2013.

(6) The provisions of this regulation shall be applicable to all prospective transactions.

(7) For the purpose of this regulation, all entities falling under the definition of related parties shall not vote to approve the relevant transaction irrespective of whether the entity is a party to the particular transaction or not.

(8) All existing material related party contracts or arrangements entered into prior to the date of notification of these regulations and which may continue beyond

	such date shall be placed for approval of the shareholders in the first General Meeting subsequent to notification of these regulations. (9) The listed entity shall submit within 30 days from the date of publication of its standalone and consolidated financial results for the half year, disclosures of related party transactions on a consolidated basis, in the format specified in the relevant accounting standards for annual results to the stock exchanges and publish the same on its website. (Inserted w.e.f 01.04.2019)
CORPORATE GOVERNANCE REQUIREMENTS WITH RESPECT TO SUBSIDIARY OF LISTED ENTITY (24)	(1) At least one independent director on the board of directors of the listed entity shall be a director on the board of directors of an unlisted material subsidiary, whether incorporated in India or not. Explanation-For the purposes of this provision, notwithstanding anything to the contrary contained in regulation 16, the term “material subsidiary” shall mean a subsidiary, whose income or net worth exceeds twenty percent of the consolidated income or net worth respectively, of the listed entity and its subsidiaries in the immediately preceding accounting year. (Substituted w.e.f 01.04.2019) (2)The audit committee of the listed entity shall also review the financial statements, in particular, the investments made by the unlisted subsidiary. (3)The minutes of the meetings of the board of directors of the unlisted subsidiary shall be placed at the meeting of the board of directors of the listed entity. (4)The management of the unlisted subsidiary shall periodically bring to the notice of the board of directors of the listed entity, a statement of all significant transactions and arrangements entered into by the unlisted subsidiary. Explanation.-For the purpose of this regulation, the term “significant transaction or arrangement” shall mean any individual transaction or arrangement that exceeds or is likely to exceed ten percent of the total revenues or total expenses or total assets or total liabilities, as the case may be, of the unlisted subsidiary for the immediately preceding accounting year. (5)A listed entity shall not dispose of shares in its material subsidiary resulting in reduction of its shareholding (either on its own or together with other subsidiaries) to less than fifty percent or cease the exercise of control over the subsidiary without passing a special resolution in its General Meeting except in cases where such divestment is made under a scheme of arrangement duly approved by a Court/Tribunal, or under a resolution plan duly approved under section 31 of the Insolvency Code and such an event is disclosed to the recognized stock exchanges within one day of the resolution plan being approved. (Inserted w.e.f 31.05.2018) (6)Selling, disposing and leasing of assets amounting to more than twenty percent of the assets of the material subsidiary on an aggregate basis during a financial year shall require prior approval of shareholders by way of special resolution, unless the sale/disposal/lease is made under a scheme of arrangement duly approved by a Court/Tribunal, or under a resolution plan duly approved under section 31 of the Insolvency Code and such an event is disclosed to the recognized stock exchanges within one day of the resolution plan being approved. (Inserted w.e.f 31.05.2018) (7)Where a listed entity has a listed subsidiary, which is itself a holding

	company, the provisions of this regulation shall apply to the listed subsidiary in so far as its subsidiaries are concerned.
SECRETARIAL AUDIT (24A)	Every listed entity and its material unlisted subsidiaries incorporated in India shall undertake secretarial audit and shall annex with its annual report, a secretarial audit report, given by a company secretary in practice, in such form as may be specified with effect from the year ended March 31, 2019.
OBLIGATION WITH RESPECT TO INDEPENDENT DIRECTORS (25)	(1) No person shall be appointed or continue as an alternate director for an independent director of a listed entity with effect from October 1, 2018. (2) The maximum tenure of independent directors shall be in accordance with the Companies Act, 2013 and rules made thereunder, in this regard, from time to time. (3) The independent directors of the listed entity shall hold at least one meeting in a year, without the presence of non-independent directors and members of the management and all the independent directors shall strive to be present at such meeting. (4) The independent directors in the meeting referred in sub-regulation (3) shall, inter alia- (a) review the performance of non-independent directors and the board of directors as a whole; (b) review the performance of the chairperson of the listed entity, taking into account the views of executive directors and non-executive directors; (c) assess the quality, quantity and timeliness of flow of information between the management of the listed entity and the board of directors that is necessary for the board of directors to effectively and reasonably perform their duties. (5) An independent director shall be held liable, only in respect of such acts of omission or commission by the listed entity which had occurred with his knowledge, attributable through processes of board of directors, and with his consent or connivance or where he had not acted diligently with respect to the provisions contained in these regulations. (6) An independent director who resigns or is removed from the board of directors of the listed entity shall be replaced by a new independent director by listed entity at the earliest but not later than the immediate next meeting of the board of directors or three months from the date of such vacancy, whichever is later; Provided that where the listed entity fulfils the requirement of independent directors in its board of directors without filling the vacancy created by such resignation or removal, the requirement of replacement by a new independent director shall not apply. (7) The listed entity shall familiarise the independent directors through various programmes about the listed entity, including the following: (a) nature of the industry in which the listed entity operates; (b) business model of the listed entity; (c) roles, rights, responsibilities of independent directors; and (d) any other relevant information. (8) Every independent director shall, at the first meeting of the board in which he participates as a director and thereafter at the first meeting of the board in

	every financial year or whenever there is any change in the circumstances which may affect his status as an independent director, submit a declaration that he meets the criteria of independence as provided in clause (b) of sub-regulation (1) of regulation 16 and that he is not aware of any circumstance or situation, which exist or may be reasonably anticipated, that could impair or impact his ability to discharge his duties with an objective independent judgment and without any external influence. (9) The board of directors of the listed entity shall take on record the declaration and confirmation submitted by the independent director under sub-regulation (8) after undertaking due assessment of the veracity of the same. (10) With effect from October 1, 2018, the top 500 listed entities by market capitalization calculated as on March 31 of the preceding financial year, shall undertake Directors and Officers insurance ('D and O insurance') for all their independent directors of such quantum and for such risks as may be determined by its board of directors.
IN PRINCIPAL APPROVAL OF RSE (28)	(1) The listed entity, before issuing securities, shall obtain an 'in-principle' approval from recognized stock exchange(s) in the following manner: (a) where the securities are listed only on recognized stock exchange(s) having nationwide trading terminals, from all such stock exchange(s); (b) where the securities are not listed on any recognized stock exchange having nationwide trading terminals, from all the stock exchange(s) in which the securities of the issuer are proposed to be listed; (c) where the securities are listed on recognized stock exchange(s) having nationwide trading terminals as well as on the recognized stock exchange(s) not having nationwide trading terminals, from all recognized stock exchange(s) having nationwide trading terminals: (2) The requirement of obtaining in-principle approval from recognized stock exchange(s), shall not be applicable for securities issued pursuant to the scheme of arrangement for which the listed entity has already obtained No-Objection Letter from recognized stock exchange(s) in accordance with regulation 37.
PRIOR INTIMATIONS (29)	(1) The listed entity shall give prior intimation to stock exchange about the meeting of the board of directors in which any of the following proposals is due to be considered: (a) financial results viz. quarterly, half yearly, or annual, as the case may be; (b) proposal for buyback of securities; (c) proposal for voluntary delisting by the listed entity from the stock exchange(s); (d) fund raising by way of further public offer, rights issue, American Depository Receipts/Global Depository Receipts/Foreign Currency Convertible Bonds, qualified institutions placement, debt issue, preferential issue or any other method and for determination of issue price: Provided that intimation shall also be given in case of any annual general meeting or extraordinary general meeting or postal ballot that is proposed to be held for obtaining shareholder approval for further fund raising indicating type of issuance. (e) declaration/recommendation of dividend, issue of convertible securities including convertible debentures or of debentures carrying a right to subscribe to equity shares

	or the passing over of dividend. (f) the proposal for declaration of bonus securities where such proposal is communicated to the board of directors of the listed entity as part of the agenda papers: Provided that in case the declaration of bonus by the listed entity is not on the agenda of the meeting of board of directors, prior intimation is not required to be given to the stock exchange(s).-(Omitted w.e.f. 01.10.2018) (2) The intimation required under sub-regulation (1), shall be given at least two working days in advance, excluding the date of the intimation and date of the meeting: Provided that intimation regarding item specified in clause (a) of sub-regulation (1), to be discussed at the meeting of board of directors shall be given at least five days in advance (excluding the date of the intimation and date of the meeting), and such intimation shall include the date of such meeting of board of directors. (3) The listed entity shall give intimation to the stock exchange(s) at least eleven working days before any of the following proposal is placed before the board of directors - (a) Any alteration in the form or nature of any of its securities that are listed on the stock exchange or in the rights or privileges of the holders thereof. (b) Any alteration in the date on which, the interest on debentures or bonds, or the redemption amount of redeemable shares or of debentures or bonds, shall be payable.
HOLDING OF SPECIFIED SECURITIES & SHAREHOLDING PATTERN (31)	(1) The listed entity shall submit to the stock exchange(s) a statement showing holding of securities and shareholding pattern separately for each class of securities, in the format specified by the Board from time to time within the following timelines - (a) one day prior to listing of its securities on the stock exchange(s); (b) on a quarterly basis, within twenty one days from the end of each quarter; and, (c) within ten days of any capital restructuring of the listed entity resulting in a change exceeding two per cent of the total paid-up share capital: Provided that in case of listed entities which have listed their specified securities on SME Exchange, the above statements shall be submitted on a half yearly basis within twenty one days from the end of each half year. (2) The listed entity shall ensure that hundred percent of shareholding of promoter(s) and promoter group is in dematerialized form and the same is maintained on a continuous basis in the manner as specified by the Board. (3) The listed entity shall comply with circulars or directions issued by the Board from time to time with respect to maintenance of shareholding in dematerialized form. (4) All entities falling under promoter and promoter group shall be disclosed separately in the shareholding pattern appearing on the website of all stock exchanges having nationwide trading terminals where the specified securities of the entity are listed, in accordance with the formats specified by the Board. (Inserted w.e.f. 16.11.2018)
CONDITIONS FOR RE-CLASSIFICATION	(1) For the purpose of this regulation: (a) “promoter(s) seeking re-classification” shall mean all such promoters/persons

OF ANY PERSON AS PROMOTER / PUBLIC (31A) (Substituted w.e.f. 16.11.2018)	belonging to the promoter group seeking re-classification of status as public. (b) “persons related to the promoter(s) seeking re-classification” shall mean such persons with respect to that promoter(s) seeking re-classification who fall under sub-clauses (ii), (iii) and (iv) of clause (pp) of sub-regulation (1) of regulation 2 of Securities and Exchange Board of India(Issue of Capital and Disclosure Requirements) Regulations, 2018. (2) Re-classification of the status of any person as a promoter or public shall be permitted by the stock exchanges only upon receipt of an application from the listed entity along with all relevant documents subject to compliance with conditions specified in these regulations; Provided that in case of entities listed on more than one stock exchange, the concerned stock exchanges shall jointly decide on the application. (3) Re-classification of status of a promoter/ person belonging to promoter group to public shall be permitted by the stock exchanges only upon satisfaction of the following conditions: (a)an application for re-classification to the stock exchanges has been made by the listed entity consequent to the following procedures and not later than thirty days from the date of approval by shareholders in general meeting: (i)the promoter(s) seeking re-classification shall make a request for re-classification to the listed entity which shall include rationale for seeking such re-classification and how the conditions specified in clause (b) below are satisfied; (ii)the board of directors of the listed entity shall analyze the request and place the same before the shareholders in a general meeting for approval along with the views of the board of directors on the request: Provided that there shall be a time gap of at least three months but not exceeding six months between the date of board meeting and the shareholder’s meeting considering the request of the promoter(s) seeking re-classification. (iii)the request of the promoter(s) seeking re-classification shall be approved in the general meeting by an ordinary resolution in which the promoter(s) seeking re-classification and persons related to the promoter(s) seeking re-classification shall not vote to approve such re-classification request. (b)the promoter(s) seeking re-classification and persons related to the promoter(s) seeking re-classification shall not: (i)together, hold more than ten percent of the total voting rights in the listed entity; (ii)exercise control over the affairs of the listed entity directly or indirectly; (iii)have any special rights with respect to the listed entity through formal or informal arrangements including through any shareholder agreements; (iv)be represented on the board of directors (including not having a nominee director) of the listed entity; (v)act as a key managerial person in the listed entity; (vi)be a ‘wilful defaulter’ as per the Reserve Bank of India Guidelines; (vii)be a fugitive economic offender. (c)the listed entity shall: (i)be compliant with the requirement for minimum public shareholding as required under regulation 38 of these regulations; (ii)not have trading in its shares suspended by the stock exchanges;
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	(iii)not have any outstanding dues to the Board, the stock exchanges or the depositories. (4) The promoter(s) seeking re-classification, subsequent to re-classification as public, shall comply with the following conditions: (a) he shall continue to comply with conditions mentioned at sub-clauses (i), (ii) and (iii) of clause (b) of sub-regulation 3 as specified above at all times from the date of such re-classification failing which, he shall automatically be reclassified as promoter/ persons belonging to promoter group, as applicable; (b) he shall comply with conditions mentioned at sub-clauses (iv) and (v)of clause (b) of sub-regulation 3 for a period of not less than three years from the date of such re-classification failing which, he shall automatically be reclassified as promoter/ persons belonging to promoter group, as applicable. (5) If any public shareholder seeks to re-classify itself as promoter, it shall be required to make an open offer in accordance with the provisions of Securities and Exchange Board of India(Substantial Acquisition of Shares and Takeovers) Regulations, 2011. (6) In case of transmission, succession, inheritance and gift of shares held by a promoter/ person belonging to the promoter group: (a)immediately on such event, the recipient of such shares shall be classified as a promoter/ person belonging to the promoter group, as applicable. (b)subsequently, in case the recipient classified as a promoter/person belonging to the promoter group proposes to seek re-classification of status as public, it may do so subject to compliance with conditions specified in sub-regulation (3) above. (c)in case of death of a promoter/person belonging to the promoter group, such person shall automatically cease to be included as a promoter/person belonging to the promoter group. (7) A listed entity shall be considered as 'listed entity with no promoters' if due to re-classification or otherwise, the entity does not have any promoter; (8) The following events shall deemed to be material events and shall be disclosed by the listed entity to the stock exchanges as soon as reasonably possible and not later than twenty four hours from the occurrence of the event: (a)receipt of request for re-classification by the listed entity from the promoter(s) seeking re-classification; (b)minutes of the board meeting considering such request which would include the views of the board on the request; (c)submission of application for re-classification of status as promoter/public by the listed entity to the stock exchanges; (d)decision of the stock exchanges on such application as communicated to the listed entity; (9) The provisions of sub-regulations 3, 4 and clauses (a)and (b)of sub-regulation 8 of this regulation shall not apply, if re-classification of promoter(s)/ promoter group of the listed entity is as per the resolution plan approved under section 31 of the Insolvency Code, subject to the condition that such promoter(s) seeking re-classification shall not remain in control of the listed entity
STATEMENT OF DEVIATIONS/ VARIATIONS	(1) The listed entity shall submit to the stock exchange the following statement(s) on a quarterly basis for public issue, rights issue, preferential issue etc. (a) indicating deviations, if any, in the use of proceeds from the objects stated in the

(32)	offer document or explanatory statement to the notice for the general meeting, as applicable; (b) Indicating category wise variation (capital expenditure, sales and marketing, working capital etc.) between projected utilization of funds made by it in its offer document or explanatory statement to the notice for the general meeting, as applicable and the actual utilization of funds. (2) The statement(s) specified in sub-regulation (1), shall be continued to be given till such time the issue proceeds have been fully utilized or the purpose for which these proceeds were raised has been achieved. Where an entity has raised funds through preferential allotment or qualified institutions placement, the listed entity shall disclose every year, the utilization of such funds during that year in its Annual Report until such funds are fully utilized.
FINANCIAL RESULTS (33)	• The listed entity or its subsidiaries shall submit quarterly and year-to-date standalone financial results to the stock exchange within 45 days of end of each quarter, other than the last quarter. • Unaudited financial result shall be accompanied by Limited Review Report. Audited financial results accompanied by audit report. • FR shall be signed by the chairperson or managing director, or a whole time director or in the absence of all of them; it shall be signed by any other director of the listed entity who is duly authorized by the BOD to sign the FR. • The listed entity shall submit with stock exchange within 60 days from the end of the financial year, annual audited standalone financial results for the financial year along with the audit report or in case entity having subsidiaries it shall, while submitting annual audited standalone financial results also submit annual audited consolidated financial results along with the audit report and Statement on Impact of Audit Qualifications, applicable only for audit report with modified opinion and the listed entity shall also submit the audited financial results in respect of the last quarter along-with the results for the entire financial year. • The listed entity shall also submit as part of its standalone or consolidated financial results for the half year, by way of a note, a statement of assets and liabilities as at the end of the half-year. • The listed entity shall also submit as part of its standalone and consolidated financial results for the half year, by way of a note, statement of cash flows for the half-year. • The statutory auditor of a listed entity shall undertake a limited review of the audit of all the entities/ companies whose accounts are to be consolidated with the listed entity as per AS 21 in accordance with guidelines issued by the Board on this matter.
ANNUAL REPORT (34)	1) The listed entity shall submit to the stock exchange and publish on its website- (a) a copy of the annual report sent to the shareholders along with the notice of the annual general meeting not later than the day of commencement of dispatch to its shareholders; (b) in the event of any changes to the annual report, the revised copy along with the details of and explanation for the changes shall be sent not later than 48 hours after the annual general meeting.

	(2) The annual report shall contain the following: (a) audited financial statements i.e. balance sheets, profit and loss accounts etc (b) consolidated financial statements audited by its statutory auditors; (c) cash flow statement presented only under the indirect method as prescribed in Accounting Standard-3 or Indian Accounting Standard 7, as applicable, specified in Section 133 of the Companies Act, 2013 read with relevant rules framed thereunder or as specified by the Institute of Chartered Accountants of India, whichever is applicable; (d) directors report; (e) management discussion and analysis report - either as a part of directors report or addition thereto; (f) for the top five hundred listed entities based on market capitalization (calculated as on March 31 of every financial year), business responsibility report describing the initiatives taken by them from an environmental, social and governance perspective, in the format as specified by the Board from time to time: Provided that listed entities other than top five hundred listed companies based on market capitalization and listed entities which have listed their specified securities on SME Exchange, may include these business responsibility reports on a voluntary basis in the format as specified. (3) The annual report shall contain any other disclosures specified in Companies Act, 2013 along with other requirements as specified in Schedule V of these regulations.
DOCUMENTS & INFORMATION TO SHAREHOLDERS (36)	(1) The listed entity shall send the annual report in the following manner to the shareholders: (a) Soft copies of full annual report to all those shareholder(s) who have registered their email address(es) either with the listed entity or with any depository; (b) Hard copy of statement containing the salient features of all the documents, as prescribed in Section 136 of Companies Act, 2013 or rules made thereunder to those shareholder(s) who have not so registered; (c) Hard copies of full annual reports to those shareholders, who request for the same. (2) The listed entity shall send annual report referred to in sub-regulation (1), to the holders of securities, not less than twenty-one days before the annual general meeting. (3) In case of the appointment of a new director or re-appointment of a director the shareholders must be provided with the following information: (a) a brief resume of the director; (b) nature of his expertise in specific functional areas; (c) disclosure of relationships between directors inter-se; (d) names of listed entities in which the person also holds the directorship and the membership of Committees of the board; and (e) Shareholding of non-executive directors. (4) The disclosures made by the listed entity with immediate effect from date of notification of these amendments-(a) to the stock exchanges shall be in XBRL format in accordance with the guidelines specified by the stock exchanges from time to time; and (b) to the stock exchanges and on its website, shall be in a format that allows users to find relevant information easily through a searching tool: Provided that the requirement to make disclosures in searchable formats shall not apply in case there is a statutory requirement to make such disclosures

	in formats which may not be searchable, such as copies of scanned documents. (5) The notice being sent to shareholders for an annual general meeting, where the statutory auditor(s) is/are proposed to be appointed/re-appointed shall include the following disclosures as a part of the explanatory statement to the notice: (a) Proposed fees payable to the statutory auditor(s) along with terms of appointment and in case of a new auditor, any material change in the fee payable to such auditor from that paid to the outgoing auditor along with the rationale for such change; (b) Basis of recommendation for appointment including the details in relation to and credentials of the statutory auditor(s) proposed to be appointed. (Inserted w.e.f 01.04.2019)
MINIMUM PUBLIC SHAREHOLDING (38)	The listed entity shall comply with the minimum public shareholding requirements specified in Rule 19(2) and Rule 19A of the Securities Contracts (Regulation) Rules, 1957 in the manner as specified by SEBI from time to time. However, the provisions of this regulation shall not apply to entities listed on Innovators Growth platform without making a public issue.
TRANSFER OR TRANSMISSION OR TRANSPOSITION (40) (Important)	The Board of directors may delegate the power of transfer of securities to a committee or to a compliance officer or to the share transfer agent. Such delegated authority shall attend to share transfer formalities once in a fortnight and shall report on the same to the Board of director. Transfer of securities - On receipt of proper documentation, the listed entity shall register transfers of its securities in the name of the transferee(s) and issue certificates or receipts or advices, as applicable, of transfers; or issue any valid objection or intimation to the transferee or transferor, as the case may be, within a period of 15 days from the date of such receipt of request for transfer. Transmission of securities - The listed entity shall ensure that transmission requests are processed for securities held in dematerialized mode and physical mode within 7 days and 21 days respectively, after receipt of the specified documents.
DIVIDEND DISTRIBUTION POLICY (43A) (AMENDMENT 08.07.2016)	(1) The top five hundred listed entities based on market capitalization (calculated as on March 31 of every financial year) shall formulate a dividend distribution policy which shall be disclosed in their annual reports and on their websites. (2) The dividend distribution policy shall include the following parameters: (a) the circumstances under which the shareholders of the listed entities may or may not expect dividend; (b) the financial parameters that shall be considered while declaring dividend; (c) internal and external factors that shall be considered for declaration of dividend; (d) policy as to how the retained earnings shall be utilized; and (e) parameters that shall be adopted with regard to various classes of shares: Provided that if the listed entity proposes to declare dividend on the basis of parameters in addition to clauses (a) to (e) or proposes to change such additional

	parameters or the dividend distribution policy contained in any of the parameters, it shall disclose such changes along with the rationale for the same in its annual report and on its website. (3) The listed entities other than top five hundred listed entities based on market capitalization may disclose their dividend distribution policies on a voluntary basis in their annual reports and on their websites
MEETINGS OF SHAREHOLDERS & VOTING	(1) The listed entity shall provide the facility of remote e-voting facility to its shareholders, in respect of all shareholders' resolutions. (2) The e-voting facility to be provided to shareholders in terms of sub-regulation (1), shall be provided in compliance with the conditions specified under the Companies (Management and Administration) Rules, 2014, or amendments made thereto. (3) The listed entity shall submit to the stock exchange, within forty eight hours of conclusion of its General Meeting, details regarding the voting results in the format specified by the Board. (4) The listed entity shall send proxy forms to holders of securities in all cases mentioning that a holder may vote either for or against each resolution. (5) The top 100 listed entities by market capitalization, determined as on March 31st of every financial year, shall hold their annual general meetings within a period of five months from the date of closing of the financial year. (6) The top 100 listed entities shall provide one-way live webcast of the proceedings of the annual general meetings. Explanation: The top 100 entities shall be determined on the basis of market Capitalisation, as at the end of the immediate previous financial year.
CHANGE IN NAME OF ENTITY (45)	(1) The listed entity shall be allowed to change its name subject to compliance with the following conditions: (a) a time period of at least one year has elapsed from the last name change; (b) at least fifty percent. of the total revenue in the preceding one year period has been accounted for by the new activity suggested by the new name; or (c) the amount invested in the new activity/project is at least fifty percent. of the assets of the listed entity: Provided that if any listed entity has changed its activities which are not reflected in its name, it shall change its name in line with its activities within a period of six months from the change of activities in compliance of provisions as applicable to change of name prescribed under Companies Act, 2013 (2) On satisfaction of conditions at sub-regulation (1), the listed entity shall file an application for name availability with Registrar of Companies. (3) On receipt of confirmation regarding name availability from Registrar of Companies, before filing the request for change of name with the Registrar of Companies in terms of provisions laid down in Companies Act, 2013 and rules made thereunder, the listed entity shall seek approval from Stock Exchange by submitting a certificate from chartered accountant stating compliance with conditions at sub-regulation (1).

WEBSITE (46)	The listed entity shall disseminate the following information under a separate section on its website: (a) details of its business; (b) terms and conditions of appointment of independent directors; (c) composition of various committees of board of directors; (d) code of conduct of board of directors and senior management personnel; (e) details of establishment of vigil mechanism/ Whistle Blower policy; (f) criteria of making payments to non-executive directors , if the same has not been disclosed in annual report; (g) policy on dealing with related party transactions; (h) policy for determining ‘material’ subsidiaries; (i) details of familiarization programs imparted to independent directors including the following details:- (i) number of programs attended by independent directors (during the year and on a cumulative basis till date), (ii) number of hours spent by independent directors in such programs (during the year and on cumulative basis till date), and (iii) other relevant details (j) the email address for grievance redressal and other relevant details; (k) contact information of the designated officials of the listed entity who are responsible for assisting and handling investor grievances; (l) financial information including: (i) notice of meeting of the board of directors where financial results shall be discussed; (ii) financial results, on conclusion of the meeting of the board of directors where the financial results were approved; (iii) complete copy of the annual report including balance sheet, profit and loss account, directors report, corporate governance report etc; (m) shareholding pattern; (n) details of agreements entered into with the media companies and/or their associates, etc; (o) schedule of analyst or institutional investor meet and presentations made by the listed entity to analysts or institutional investors simultaneously with submission to stock exchange; (p) new name and the old name of the listed entity for a continuous period of one year, from the date of the last name change; (q) Items as prescribed in Regulation 47(1); (r) With effect from October 1, 2018, all credit ratings obtained by the entity for all its outstanding instruments, updated immediately as and when there is any revision in any of the ratings. (s) separate audited financial statements of each subsidiary of the listed entity in respect of a relevant financial year, uploaded at least 21 days prior to the date of the annual general meeting which has been called to inter alia consider accounts of that financial year.
ADVERTISEMENT IN NEWSPAPER (47)	(1) The listed entity shall publish the following information in the newspaper: (a) notice of meeting of the board of directors where financial results shall be discussed (b) financial results, as specified in regulation 33, along-with the modified opinion(s) or reservation(s), if any, expressed by the auditor: Provided that if the listed entity has submitted both standalone and consolidated financial results, the listed entity shall publish consolidated financial results along-with (1) Turnover, (2) Profit before tax and (3) Profit after tax, on a stand-alone basis, as a foot note; and a reference to the places, such as the website of listed entity and stock exchange(s), where the standalone results of the listed entity are available.

	(c) statements of deviation(s) or variation(s) as specified in sub-regulation (1) of regulation 32 on quarterly basis, after review by audit committee and its explanation in directors report in annual report; (d) notices given to shareholders by advertisement. (2) The listed entity shall give a reference in the newspaper publication, in sub-regulation (1), to link of the website of listed entity and stock exchange(s), where further details are available. (3) The listed entity shall publish the information specified in sub-regulation (1) in the newspaper simultaneously with the submission of the same to the stock exchange(s). Provided that financial results at clause (b) of sub-regulation (1), shall be published within 48 hours of conclusion of the meeting of board of directors at which the financial results were approved. (4) The information at sub-regulation (1) shall be published in at least one English language national daily newspaper circulating in the whole or substantially the whole of India and in one daily newspaper published in the language of the region, where the registered office of the listed entity is situated: Provided that the requirements of this regulation shall not be applicable in case of listed entities which have listed their specified securities on SME Exchange.
CHAPTER VII: OBLIGATIONS OF LISTED ENTITY WHICH HAS LISTED INDIAN DEPOSITORY RECEIPTS	
GENERAL OBLIGATIONS OF LISTED ENTITY (67)	(1) All correspondences filed with the stock exchange(s) and those sent to the IDR Holders shall be in English. (2) The listed entity shall comply, at all times, with the rules/regulations/laws of the country of origin. (3) The listed entity shall undertake that the competent Courts, Tribunals and regulatory authorities in India shall have jurisdiction in the event of any dispute, either with the stock exchange or any investor, concerning the India Depository Receipts offered or subscribed or bought in India. (4) The listed entity shall forward, on a continuous basis, any information requested by the stock exchange, in the interest of investors from time to time. (5) In case of any claim, difference or dispute under the provisions of this chapter and other provisions of these regulations applicable to the listed entity, the same shall be referred to and decided by arbitration as provided in the bye-laws and regulations of the stock exchange(s).
INDIAN DEPOSITORY RECEIPT HOLDING PATTERN & SHAREHOLDING DETAILS. (69)	(1) The listed entity shall file with the stock exchange the Indian Depository Receipt holding pattern on a quarterly basis within fifteen days of end of the quarter in the format specified by the Board. (2) The listed entity shall file the following details with the stock exchange as is required to be filed in compliance with the disclosure requirements of the listing authority or stock exchange in its home country or any other jurisdiction where the securities of the listed entity are listed: (a) Shareholding Pattern; (b) Pre and post arrangement share holding pattern and Capital Structure in case of any corporate restructuring like mergers / amalgamations
PERIODICAL FINANCIAL RESULTS (70)	(1) The listed entity shall file periodical financial results with the stock exchange in such manner and within such time and to the extent that it is required to file as per the listing requirements of the home country. (2) The listed entity shall comply with the requirements with respect to preparation and disclosures in financial results as specified in Part B of Schedule IV.

ANNUAL REPORT (71) (June 2019 Exams)	(1) The listed entity shall submit to stock exchange an annual report at the same time as it is disclosed to the security holder in its home country or in other jurisdictions where such securities are listed. (2) The annual report shall contain the following: (a) Report of board of directors; (b) Balance Sheet; (c) Profit and Loss Account; (d) Auditors Report; (e) All periodical and special reports(if applicable); (f) Any such other report which is required to be sent to security holders annually. (3) The listed entity shall comply with the requirements with respect to preparation and disclosures in financial results in annual report as specified in Part B of Schedule IV.
CORPORATE GOVERNANCE (72)	(1) The listed entity shall comply with the corporate governance provisions as applicable in its home country and other jurisdictions in which its equity shares are listed. (2) The listed entity shall submit to stock exchange a comparative analysis of the corporate governance provisions that are applicable in its home country and in the other jurisdictions in which its equity shares are listed along with the compliance of the same vis-à-vis the corporate governance requirements applicable under regulation 17 to regulation 27, to other listed entities.
DOCUMENTS AND INFORMATION TO IDR HOLDER. (73)	The listed entity shall disclose/send the following documents to IDR Holders, at the same time and to the extent that it discloses to security holders in its home country or in other jurisdictions where its securities are listed: (a) Soft copies of the annual report to all the IDR holders who have registered their email address(es) for the purpose (b) Hard copy of the annual report to those IDR holders who request for the same either through domestic depository or Compliance Officer (c) the pre and post arrangement capital structure and share holding pattern in case of any corporate restructuring like mergers / amalgamations and other schemes
EQUITABLE TREATMENT TO IDR HOLDERS. (74)	(1) If the listed entity's equity shares or other securities representing equity shares are also listed on the stock exchange(s) in countries other than its home country, it shall ensure that IDR Holders are treated in a manner equitable with security holders in home country. (2) The listed entity shall ensure that for all corporate actions, except those which are not permitted by Indian laws, it shall treat IDR holders in a manner equitable with security holders in the home country. (3) In case of take-over or delisting or buy-back of its equity shares, the listed entity shall, while following the laws applicable in its home country, give equitable treatment to IDR holders vis-à-vis security holder in home country. (4) The listed entity shall ensure protection of interests of IDR holders particularly with respect to all corporate benefits permissible under Indian laws and the laws of its home country and shall address all investor grievances adequately.
TERMS OF INDIAN DEPOSITORY RECEIPTS. (76)	(1) The listed entity shall pay the dividend as per the timeframe applicable in its home country or other jurisdictions where its securities are listed, whichever is earlier, so as to reach the IDR Holders on or before the date fixed for payment of dividend to holders of its equity share or other securities.

	(2) The listed entity shall not forfeit unclaimed dividends before the claim becomes barred by law in the home country of the listed entity, as may be applicable, and that such forfeiture, when effected, shall be annulled in appropriate cases. (3) The Indian Depository Receipts shall have two-way fungibility in the manner specified by the Board from time to time.
STRUCTURE OF INDIAN DEPOSITORY RECEIPTS. (77)	(1) The listed entity shall ensure that the underlying shares of IDRs shall rank <i>pari-passu</i> with the existing shares of the same class and the fact of having different classes of shares based on different criteria, if any, shall be disclosed by the listed entity in the annual report. (2) The listed entity shall not exercise a lien on the fully paid underlying shares, against which the IDRs are issued, and that in respect of partly paid underlying shares, against which the IDRs are issued and shall also not exercise any lien except in respect of moneys called or payable at a fixed time in respect of such underlying shares. (3) The listed entity, subject to the requirements under the laws and regulations of its home country, if any amount be paid up in advance of calls on any underlying shares against which the IDRs are issued, shall stipulate that such amount may carry interest but shall not in respect thereof confer a right to dividend or to participate in profits.
VOTING (79)	(1) The listed entity shall, either directly or through an agent, send out proxy forms to IDR Holders in all cases mentioning that a security holder may vote either for or against each resolution. (2) Voting rights of the IDR Holders shall be exercised in accordance with the depository agreement.
DELISTING OF INDIAN DEPOSITORY RECEIPT. (80)	(1) The listed entity shall, if it decides to delist Indian Depository Receipts, give fair and reasonable treatment to IDR holders. (2) The listed entity shall comply with such norms and conditions for delisting Indian Depository Receipts as specified by the Board or stock exchange in this regard. (3) The listed entity shall, in case underlying equity shares are delisted, shall delist and cancel the Indian Depository Receipts.
CHAPTER VIII: OBLIGATIONS OF LISTED ENTITY WHICH HAS LISTED ITS SECURITISED DEBT INSTRUMENTS	
TERMS OF SECURITIZED DEBT INSTRUMENTS (86)	(1) The listed entity shall ensure that no material modification shall be made to the structure of the securitized debt instruments in terms of coupon, conversion, redemption, or otherwise without prior approval of the recognized stock exchange(s) where the securitized debt instruments are listed and the listed entity shall make an application to the recognized stock exchange(s) only after the approval by Trustees. (2) The listed entity shall ensure timely interest/ redemption payment. (3) The listed entity shall ensure that where credit enhancement has been provided for, it shall make credit enhancement available for listed securitized debt instruments at all times. (4) The listed entity shall not forfeit unclaimed interest and principal and such unclaimed interest and principal shall be, after a period of seven years, transferred to the Investor Protection and Education Fund established under the Securities and

	Exchange Board of India (Investor Protection and Education Fund) Regulations, 2009. (5) Unless the terms of issue provide otherwise, the listed entity shall not select any of its listed securitized debt instruments for redemption otherwise than on pro rata basis or by lot and shall promptly submit to the recognized stock exchange(s) the details thereof. (6) The listed entity shall remain listed till the maturity or redemption of securitized debt instruments or till the same are delisted as per the procedure laid down by the Board Provided that the provisions of this sub-regulation shall not restrict the right of the recognized stock exchange(s) to delist, suspend or remove the securities at any time and for any reason which the recognized stock exchange(s) considers proper in accordance with the applicable legal provisions.
CHAPTER VIIIA: OBLIGATIONS OF LISTED ENTITY WHICH HAS LISTED ITS SECURITY RECEIPTS (Inserted w.e.f. 06.09.2018)	
APPLICABILITY (87A)	(1) The provisions of this chapter shall apply to the issuer of security receipts which has listed its security receipts and the issuer and its sponsor shall ensure compliance with each of the provisions of these Regulations.
INTIMATIONS & DISCLOSURES OF EVENTS OR INFORMATION TO STOCK EXCHANGE (87B)	(1) The listed entity shall first disclose to stock exchange(s) of all events or information, as specified in Part E of Schedule III, as soon as reasonably possible but not later than twenty four hours from occurrence of the event or information: Provided that in case the disclosure is made after twenty four hours of occurrence of the event or information, the listed entity shall, along with such disclosures provide explanation for the delay. (2) The listed entity with respect to disclosures referred to in this regulation, shall provide updates related to such disclosures on a regular basis, till such time the event is resolved/closed, with relevant explanations. (3) The listed entity shall provide specific and adequate reply to all queries raised by stock exchange(s) with respect to any events or information. Provided that the stock exchange(s) shall disseminate information and clarification as soon as reasonably practicable. (4) The listed entity, suo moto, may confirm or deny any reported event or information to stock exchange(s). (5) The listed entity shall disclose on its website or on the website of the sponsor all such events or information which has been disclosed to stock exchange(s) under this regulation, and such disclosures shall be hosted on the website of the listed entity for a minimum period of five years and thereafter as per the archival policy of the listed entity, as disclosed on its website. <u>PART E: DISCLOSURE OF EVENTS OR INFORMATION TO STOCK EXCHANGES: SECURITY RECEIPTS</u> The following events/information shall be disclosed by the listed entity without any application of guidelines of materiality as soon as reasonably possible but not later than twenty four hours from occurrence of event or information: • periodic Net Asset Value; • periodic rating obtained from credit rating agency or any revision in the rating or any expected revision in rating;

	• any proposal to change or change of credit rating agency or Valuer; • any proposal for acquisition of assets including terms of acquisition; • any proposal to change or any change in terms of security receipts including rights or privileges or nature or form etc.; • any breach of covenant(s) under the terms of security receipts; • any change in the general character or nature of business / activities, disruption of operation due to natural calamity etc. of the listed entity; • any change in value of cash-flows as disclosed if any; • any delay or expected delay in cash flows from the due date or pre-agreed date if any; • any receipt of cash flow or expected cash flow along with quantum so received; • any change in percentage holding of non-performing loans across other banks;
RATING, VALUATION & NAV DISCLOSURE (87C)	(1) An issuer whose security receipts are listed on a stock exchange shall ensure that: (i) the listed security receipts are <u>valued at the end of each quarter</u> i.e. as on March 31, June 30, September 30 and December 31 of every year; (ii) valuation is <u>conducted by an independent valuer</u>; and (iii) the net asset value is calculated on the basis of such independent valuation and the same is declared by the asset reconstruction company within fifteen days of the end of the quarter. (2) The issuer shall also comply with the extant Reserve Bank of India requirement of obtaining credit rating of security receipts at half yearly interval and declaration of the net asset value thereafter and/or any other requirement as prescribed by the Reserve Bank of India from time to time. Provided that in those two quarters in a year, where both external valuation and credit rating are required, issuer shall disclose lower of the two calculated Net Asset Value.
TERMS OF SECURITY RECEIPTS (87D)	(1) Any security receipt issued would be transferable only in favour of qualified buyers in terms of Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002. (2) Unless the terms of issue provide otherwise, the listed entity shall not select any of its listed security receipts for payments otherwise than on pro rata basis or by lot and shall promptly submit to the stock exchange(s) the details thereof.
RECORD DATE (87E)	(1) The listed entity shall fix a record date for payment to holders of security receipts or for such other purposes as specified by the stock exchange(s). (2) The listed entity shall give notice in advance of at least seven working days (excluding the date of intimation and the record date) to the stock exchange(s) of the record date or of as many days as the stock exchange may agree to or require specifying the purpose of the record date;
CHAPTER IX: OBLIGATIONS OF LISTED ENTITY WHICH HAS LISTED ITS MUTUAL FUND UNITS	
APPLICABILITY (88)	(1) The provisions of this chapter shall apply to the asset management company managing the mutual fund scheme whose units are listed on the recognized stock exchange(s). (2) Notwithstanding anything contained in this chapter, the provisions of the Securities and Exchange Board of India (Mutual Funds) Regulations, 1996 and

	directions issued thereunder shall apply on the listed entity and to the schemes whose units are listed on the recognized stock exchange(s).
SUBMISSION OF DOCUMENTS (90)	(1) The listed entity shall intimate to the recognized stock exchange(s) the information relating to daily Net Asset Value, monthly portfolio, half yearly portfolio of those schemes whose units are listed on the recognized stock exchange(s) in the format as specified under Securities and Exchange Board of India (Mutual Funds) Regulations, 1996 and directions issued there under. (2) The listed entity shall intimate to the recognized stock exchange(s) in the manner specified by the recognized stock exchange(s) of: (a) movement in unit capital of those schemes whose units are listed on the recognized stock exchange(s); (b) rating of the scheme whose units are listed on the recognized stock exchange(s) and any changes in the rating thereof (wherever applicable); (c) imposition of penalties and material litigations against the listed entity and Mutual Fund; (d) any prohibitory orders restraining the listed entity from transferring units registered in the name of the unit holders.
DISSEMINATION OF INFORMATION ON WEBSITES (91)	The listed entity shall submit such information and documents, which are required to be disseminated on the listed entity's website in terms of Securities and Exchange Board of India (Mutual Funds) Regulations, 1996 and directions issued there under, to the recognized stock exchange for dissemination.

SUMMARY OF COMPLIANCE UNDER SEBI LODR

ONE-TIME COMPLIANCES

The following are the one time compliances:-

Regulation	Compliance Particulars
6(1)	A listed entity shall appoint a Company Secretary as the Compliance Officer
7(1)	The listed entity shall appoint a share transfer agent or the listed entity register with SEBI as Category II share transfer agent in case of share transfer facility in house.
9	The listed entity shall have a policy for preservation of documents, approved by its Board of Directors. Constitution of Committees - Audit Committee (Regulation 18) - Nomination and Remuneration Committee (Regulation 19) - Stakeholders Relationship Committee (Regulation 20) - Risk Management Committee (Regulation 21) - Vigil Mechanism (Regulation 22)

QUARTERLY COMPLIANCES

13(3)	The listed entity shall file with the recognised stock exchange, a statement giving the number of investor complaints pending at the beginning of the quarter, those received during the quarter, disposed of during the quarter and those remaining unresolved at the end of the quarter	within 21 days from end of quarter
27	The listed entity shall submit a quarterly compliance report on corporate governance in the format as specified by SEBI from time to time to the recognized stock exchange(s)	within 15 days from end of quarter

31(1)(B)	The listed entity shall submit to the stock exchange(s) a statement showing holding of securities and shareholding pattern separately for each class of securities, in the format specified by SEBI from time to time	within 21 days from end of quarter
32(1)	The listed entity shall submit to the stock exchange a statement of deviation or variation	-
33(3)	The listed entity shall submit quarterly and year-to-date financial results to the stock exchange	within forty-five days of end of each quarter, other than the last quarter

HALF YEARLY COMPLIANCES:

7(3)	The listed entity shall submit a compliance certificate to the exchange, duly signed by both the compliance officer of the listed entity and the authorised representative of the share transfer agent	Within one month of end of each half of the financial year.
40(9)	The listed entity shall ensure that the share transfer agent and/or the in-house share transfer facility, as the case may be, produces a certificate from a practising company secretary	within one month of the end of each half of the financial year

YEARLY COMPLIANCES

14	The listed entity shall pay all such fees or charges, as applicable, to the recognised stock exchange(s), in the manner specified by SEBI or the recognised stock Exchange (s).	within 30 days of the end of financial year
33(3)	The listed entity shall submit annual audited standalone financial results with audit report and Statement on Impact of Audit Qualifications applicable only for audit report with modified opinion to the stock exchange	within 60 days from the end of the financial year
34	The listed entity shall submit the annual report to the stock exchange	within twenty one working days of it being approved and adopted in the annual general meeting

EVENT BASED COMPLIANCES:

7(5)	The listed entity shall intimate the appointment of Share Transfer Agent, to the stock exchange(s)	Within 7 days of Agreement with RTA
28(1)	The listed entity shall obtain In-principle approval from recognised stock exchange	Prior to issuance of Security
29(1)(a) read with 29(2)	Prior Intimations of Board Meeting for financial Result viz. quarterly, half yearly or annual, to the stock exchange(s)	At least 5 clear days in advance (excluding the date of the intimation and the date of the meeting)
29(1)(b) to (f) read with 29(2)	Prior Intimations of Board Meeting for Buyback, Voluntary delisting, Fund raising by way of FPO, Rights Issue, ADR, GDR, QIP, FCCB, Preferential issue, debt issue or any other method, Declaration/ recommendation of dividend, issue of convertible securities carrying a right to subscribe to equity shares or the passing over of dividend, proposal for declaration of Bonus securities etc., to the stock exchange(s)	At least 2 working days in advance

29(3)	Prior Intimations of Board Meeting for alteration in nature of Securities, alteration in the date on which interest on debentures/bonds/redemption amount, etc. shall be payable to the stock exchange(s)	At least 11 clear working days in Advance
30(6)	Disclosure of Price Sensitive Information to the stock exchange(s)	Not later than twenty four hours as per Part A of Schedule III
31(1)(a)	The listed entity shall submit to the stock exchange(s) a statement showing holding of securities and shareholding pattern separately for each class of securities prior to listing of securities	One day prior to listing of Securities
31(1)(c)	The listed entity shall submit to the stock exchange(s) a statement showing holding of securities and shareholding pattern separately for each class of securities in case of Capital Restructuring	One day prior to listing of Securities
37(2)	The listed entity shall file draft Scheme of Arrangement to the stock exchange(s)	Prior approval before filing with Court
42(2)	The listed entity shall intimate the record date or date of closure of transfer books to all the stock exchange(s)	At least 7 clear working days in advance
42(3)	The listed entity shall give notice to stock exchange(s) of Record date for declaring dividend and/or cash bonus	At least 5 clear working days in advance
44(3)	The listed entity shall submit to the stock exchange details regarding voting results by Shareholders	Within 48 Hours of conclusion of its General Meeting
45(3)	The listed entity shall allowed to change its name	Prior approval from Stock Exchange(s)

SEBI (DELISTING OF EQUITY SHARES) REGULATIONS, 2009

DEFINITIONS	“Public Shareholders” mean the holders of equity shares, other than the following: (a) promoters, promoter group and persons acting in concert with them; (b) acquirer(s) and persons acting in concert with such acquirer(s); and (c) holders of depository receipts issued overseas against equity shares held with a custodian and such custodian holding the equity shares.
APPLICABILITY (Regulation 3)	These regulations shall apply to delisting of equity shares of a company from all or any of the recognised stock exchanges where such shares are listed. Provided that these regulations shall not apply to securities listed without making a public issue, on the Innovators Growth platform of a recognised stock exchange. Nothing in these regulations shall apply to any delisting made pursuant to a scheme sanctioned by the Board for Industrial and Financial Reconstruction under the Sick Industrial Companies (Special Provisions) Act, 1985 or by the National Company Law Tribunal under section 424D of the Companies Act, 1956, if such scheme – (a) lays down any specific procedure to complete the delisting; or (b) provides an exit option to the existing public shareholders at a specified rate.
CIRCUMSTANCES IN WHICH DELISTING ARE NOT	Stock Exchange will not permit for delisting of shares of a company on following grounds:- (i) Buy – back of equity shares by the company; or (ii) Preferential allotment made by the company; or

PERMISSIBLE (Regulation 4): (December 2018)	(iii) The period of listing of should not be less than 3 years; or (iv) Instruments which are convertible into the same class of equity shares that are sought to be delisted are outstanding. (v) Delisting of convertible securities. (vi) No Acquirer or Promoter or Promoter Group or persons acting in concert or their related parties shall: (a) Engage in any transaction or practice that operates as a fraud or deceit upon any shareholder or other person; (b) Engage in any act or practice that is fraudulent, deceptive or manipulative in connection with such delisting. (c) Employ any device, scheme or artifice to defraud any shareholder or other person; (vii) No promoter or promoter group shall propose delisting of equity shares of a company, if any entity belonging to the promoter or promoter group has sold equity shares of the company during a period of six months prior to the date of the board meeting in which the delisting proposal was approved in terms of sub-regulation (1B) of regulation 8;
TYPES OF DELISTING	
VOLUNTARY DELISTING CHAPTER III (DECEMBER 2017)	Voluntary delisting is a wish of a company for permanent removal of trading of its shares from the stock market. We can further divide voluntary delisting into three parts: (i) Delisting from all stock exchanges (ii) Delisting from few stock exchanges (iii) Delisting of small companies ➤ <u>Delisting from all Stock Exchanges: (Regulation 5)</u> If a company wishes to delist its shares from all the Stock Exchanges in India, such company is supposed to comply with SEBI (Delisting of Equity Shares) Regulations, 2009. The provisions of SEBI Delisting Regulations, 2009 are not applicable on a scheme sanctioned by the Board for Industrial and Financial Reconstruction under the Sick Industrial Companies (Special Provisions) Act, 1985 or by the NCLT. <u>PROCEDURE FOR DELISTING IN CASE OF EXIT OPPORTUNITY</u> (Regulation 8) (i) Step 1: The Company shall obtain approval from the Board of Directors with regard to delisting of equity shares. (ii) Step 2: Afterwards, the company shall obtain approval from the shareholders in the form of special resolution passed only through postal ballot. <i><u>Provided that the special resolution shall be acted upon if and only if the votes cast by public shareholders in favour of the proposal amount to at least two times the number of votes cast by public shareholders against it. Voting by Promoter Shareholders are not to be taken into consideration for this purpose.</u></i> (iii) Step 3: Subsequently the company shall make an application to the concerned recognized stock exchange for in – principle approval of the proposed delisting along with by an audit report covering a period of six months prior to the date of the application. (iv) Step 4: The concerned stock exchange shall dispose the application within 5 working days from the date of receipt of complete application. (v) Step 5: The company shall satisfy the stock exchange in respect of: (a) Compliance with SEBI regulations; (b) The resolution of investor grievances by the company; (c) Payment of listing fees to that recognized stock exchange;

(d) Compliance with the requirements of listing agreement.

(vi) **Step 6:** Within 1 year of passing the special resolution, the company shall make the final application to the concerned recognized stock exchange along with the proof of having given the exit opportunity to the existing shareholders.

Responsibilities of Board of Directors: (Sub Regulation 1A)

Prior to granting approval under clause (a) of sub-regulation (1), the board of directors of the company shall,-

(i) make a disclosure to the recognized stock exchanges on which the equity shares of the company are listed that the promoters/acquirers have proposed to delist the company;

(ii) appoint a merchant banker to carry out due-diligence and make a disclosure to this effect to the recognized stock exchanges on which the equity shares of the company are listed;

(iii) obtain details of trading in shares of the company for a period of two years prior to the date of board meeting by top twenty five shareholders as on the date of the board meeting convened to consider the proposal for delisting, from the stock exchanges and details of off-market transactions of such shareholders for a period of two years and furnish the information to the merchant banker for carrying out due-diligence;

(iv) obtain further details in terms of sub-regulation (1D) of regulation 8 and furnish the information to the merchant banker;

Certification by Board of Directors (Sub Regulation 1B & 1C)

The board of directors of the company while approving the proposal for delisting shall certify that :

(i) the company is in compliance with the applicable provisions of securities laws;

(ii) the acquirer or promoter or promoter group or their related entities, are in compliance with sub-regulation (5) of regulation 4;

(iii) the delisting is in the interest of the shareholders

For certification in respect of matters referred to in sub-regulation (1B), the board of directors of the company shall take into account the report of the merchant banker as specified in sub-regulation (1E) of regulation 8. (Sub Regulation 1C)

Due Diligence by Merchant Banker: (Sub Regulation 1D & 1E)

The merchant banker appointed by the board of directors of the company under clause (ii) of sub-regulation (1A) shall carry out due-diligence upon obtaining details from the board of directors of the company in terms of clause (iii) of sub-regulation (1A) of regulation 8. Provided that if the merchant banker is of the opinion that details referred to in clause (iii) of sub-regulation (1A) of regulation 8 are not sufficient for certification in terms of sub-regulation (1E) of regulation 8, he shall obtain additional details from the board of directors of the company for such longer period as he may deem fit.

Upon carrying out due-diligence as specified in terms of sub-regulation (1D) of regulation 8, the merchant banker shall submit a report to the board of directors of the company certifying the following:

(a) the trading carried out by any of the acquirer or promoter or promoter group entity or their related entities was in compliance or not, with the applicable provisions of the securities laws; and

(b) any of the acquirer or promoter or promoter group entity or persons acting in concert or their related entities have carried out or not any transaction to facilitate the success of the delisting offer which is in contravention of the provisions of sub-regulation (5) of regulation 4;

- **Public Announcement:** within one working day from the date of receipt of in – principle approval from stock exchanges, the Acquirers or promoters shall make a public announcement in at least one English national daily with wide circulation, one Hindi national daily with wide circulation and one regional language newspaper of the region where the concerned recognized stock exchange is located.

The public announcement contains all material information including and shall not contain any false or misleading statement. Before making the public announcement, the promoter shall appoint a merchant banker and such other intermediaries to ensure compliance with SEBI Regulations.

The public announcement shall also specify a date, being a day **not later than One working day** from the date of the public announcement, which shall be the „specified date“ for determining the names of shareholders to whom the letter of offer shall be sent.

Before making the public announcement, the acquirer or promoter shall appoint a merchant banker registered with the Board and such other intermediaries as are considered necessary.

Explanation. -The merchant banker conducting due diligence on behalf of the company may also act as the manager to the delisting offer;

No acquirer/promoter shall appoint any person as a merchant banker under sub-regulation (4) if such a person is an associate of the acquirer/promoter.

No entity belonging to the acquirer, promoter and promoter group of the company shall sell shares of the company during the period from the date of the board meeting in which the delisting proposal was approved till the completion of the delisting process.

- **Escrow Account:** The Acquirer or promoter shall open an escrow account with a **scheduled bank** and deposit therein the **total estimated amount of consideration** to be paid to the equity shareholders. The escrow account shall consist of either:

- ❖ Cash deposited with a scheduled commercial bank, or
- ❖ a bank guarantee in favor of the merchant banker, or
- ❖ a combination of both.

Explanation. -The cash component of the escrow account may be maintained in an interest bearing account, provided that the merchant banker ensures that the funds are available at the time of making payment to shareholders.

On determination of final price and making of public announcement accepting the final price, the acquirer or promoter shall forthwith deposit in the escrow account such **additional sum** as may be sufficient to make up the entire sum due and payable as consideration in respect of equity shares outstanding with public shareholders.

- **Letter of Offer:** The Acquirer or promoter shall dispatch the letter of offer to the equity shareholders, **not later than 2 working days** from the date of the public announcement, so as to reach them at least five working days before the opening of the bidding period.

The letter of offer shall be sent to all public shareholders whose names appear on the register of the company or depository as on the date specified in the public announcement.

The letter of offer shall contain all the disclosures made in the public announcement and such other disclosures as may be necessary for the shareholders to take an informed decision.

The letter of offer shall be accompanied with a bidding form for use of public shareholders and a form to be used by them for tendering shares.

Explanation. -An eligible public shareholder may participate in the delisting offer and make bids even if he does not receive the bidding form or the tender offer/offer form and such shareholder may tender shares in the manner specified by the Board in this regard

- **Bidding Period:** The date of opening of the offer shall not be later than 7 working days from the date of the public announcement. The offer shall remain open for a period of 5 working days.
- **Right of Shareholder:** All public shareholders of the equity shares which are sought to be delisted shall be entitled to participate in the book building process.

Acquirer or promoter or a person acting in a concert with any of the promoters shall not make a bid in the offer.

Any holder of depository receipts issued on the basis of underlying shares held by a custodian and any such custodian shall not be entitled to participate in the offer:

Provided that any holder of depository receipts shall be allowed to participate in the book building process under sub-regulation (1) after exchanging such depository receipts with the shares of the class that are proposed to be delisted;

- **Office Price:** The offer price shall be determined through book building process after fixation of floor price and disclosure of the same in the public announcement and the letter of offer.

The floor price shall be determined in terms of regulation 8 of Securities and Exchange Board of India (Substantial Acquisition of Shares and Takeovers) Regulations, 2011, as may be applicable.

Explanation: The reference date for computing the floor price would be the date on which the recognized stock exchange/s were required to be notified of the board meeting in which the delisting proposal would be considered;

- **Right of Promoter to either make a Counter offer or reject the offer:** The Acquirer or promoter is not bound to accept the equity shares at the offer price determined by the book – building process.

If the price discovered in terms of regulation 15 is not acceptable to the acquirer or the promoter, the acquirer or the promoter may make a counter offer to the public shareholders within two working days of the price discovered under regulation 15, in the manner specified by the Board from time to time:

Provided that the counter offer price shall not be less than the book value of the company as certified by the merchant banker;

If the acquirer or promoter decides not to accept the offer price so determined:
(i) The acquirer or promoter shall release all shares to the holders within 10 working days of closure of the bidding;
(ii) The company shall not stop the final application for delisting;
(iii) The acquirer or promoter may close the escrow account.

➤ **Minimum Number of Equity Shares to be acquired:**

If a Counter offer has not been made by the acquirer or promoter in accordance with regulation 16 (1A) above, An offer made under chapter III shall be deemed to be successful only if,-

(a) the post offer promoter shareholding (along with the persons acting in concert with the promoter) taken together with the shares accepted through eligible bids at the final price determined as per Schedule II, **reaches ninety per cent. of the total issued shares of that class excluding the shares which are held by a custodian and against which depository receipts have been issued overseas;** and

(b) **at least twenty five per cent of the public shareholders** holding shares in the demat mode as on date of the board meeting referred to in sub-regulation (1B) of regulation 8 had participated in the Book Building Process:

Provided that requirement under clause (b) shall not be applicable to cases where the acquirer and the merchant banker demonstrate to the stock exchanges that they have delivered the letter of offer to all the public shareholders either through registered post or speed post or courier or hand delivery with proof of delivery or through email as a text or as an attachment to email or as a notification providing electronic link or Uniform Resource Locator including a read receipt.

Explanation I.

a. If the acquirer or the merchant banker send the letters of offer to all the shareholders by registered post or speed post through India Post and is able to provide a detailed account regarding the status of delivery of the letters of offer (whether delivered or not) sent through India Post, the same would be considered as a deemed compliance with the proviso.

b. If the acquirer or the merchant banker is unable to deliver the letter of offer to certain shareholders by modes other than speed post or registered post of India Post, efforts should be made to deliver the letters of offer to them by speed post or registered post through India Post. In that case, a detailed account regarding the status of delivery of letter of offer (whether delivered or not) provided from India Post would also be considered as deemed compliance with the proviso;

Explanation II.

In case the delisting offer has been made in terms of regulation 5A of Securities and Exchange Board of India (Substantial Acquisition of Shares and Takeovers) Regulations, 2011, the threshold limit of ninety per cent. for successful delisting offer shall be calculated taking into account the post offer shareholding of the acquirer taken together with the existing shareholding, shares to be acquired which attracted the obligation to make an open offer and shares accepted through eligible bids at the final price determined as per Schedule II;

If a counter offer has been made by the acquirer or promoter in accordance with regulation 16(1A), an offer made under chapter III shall be deemed to be successful only if the post offer promoter shareholding (along with the persons acting in concert with the promoter) taken together with the shares accepted at the counter offer price reaches ninety per cent. of the total issued

shares of that class excluding the shares which are held by a custodian and against which depository receipts have been issued overseas;

➤ **Procedure after Closure of Offer (Regulation 18):**

Within five working days of the closure of the offer, the promoter/acquirer and the merchant banker shall make a public announcement in the same newspapers in which the public announcement under sub-regulation(1) of regulation 10 was made regarding:-

- (i) the success of the offer in terms of regulation 17 Along with the final price accepted by the acquirer; or
- (ii) the failure of the offer in terms of regulation 19; or
- ~~(iii) rejection under regulation 16 of the final price discovered under Schedule II, by the promoters; (Deleted)~~

➤ **Failure of offer (Regulation 19)**

(1) Where the offer is rejected under regulation 16 or is not successful as per regulation 17, the offer shall be deemed to have failed and no equity shares shall be acquired pursuant to such offer.

(2) Where the offer fails –

(a) the equity shares deposited or pledged by a shareholder under paragraphs 7 or 9 of Schedule II shall be returned or released to him within ten working days from the end of the bidding period;

Provided that the acquirer shall not be required to return the shares if the offer is made pursuant to regulation 5A of Securities and Exchange Board of India (Substantial Acquisition of Shares and Takeovers) Regulations, 2011.

(b) no final application shall be made to the exchange for delisting of the equity shares; and

(c) the escrow account opened under regulation 11 shall be closed.

➤ **Payment of Consideration:** upon the success of the offer, the promoter shall immediately transfer the entire amount due and payable as consideration towards the equity shares tendered in the offer within 10 working days from the closure of the offer.

➤ **Right of remaining Shareholders to Tender Shares:**

(1) Where, pursuant to acceptance of equity shares tendered in terms of these regulations, the equity shares are delisted, any remaining public shareholder holding such equity shares may tender his shares to the promoter upto a period of minimum one year from the date of delisting and, in such a case, **the promoter shall accept the shares tendered at the same final price at which the earlier acceptance of shares was made.**

(2) The payment of consideration for shares accepted under sub-regulation (1) shall be made out of the balance amount lying in the escrow account.

(3) The amount in the escrow account or the bank guarantee shall not be released to the promoter unless all payments are made in respect of shares tendered under sub-regulation (1)

DELISTING FROM ONLY SOME OF THE RECOGNIZED STOCK EXCHANGES: (Regulation 6 & 7)

A company may delist its equity shares from one or more stock exchanges where they are listed and continue their listing on other stock exchanges, if after the proposed delisting the equity shares would:

- (i) Remain listed on any recognized stock exchange which has nationwide trading terminals, no exit opportunity needs to be given to the public shareholders; and
- (ii) Not remain listed on any recognized stock exchange having nationwide trading terminals, exit opportunity shall be given to all the public shareholders holding the equity shares sought to be delisted.

➤ **Procedure for Delisting:**

(i) **Step 1:** The company shall obtain approval from the Board of Directors with regard to delisting of equity shares from one or more stock exchanges.

(ii) **Step 2:** Thereafter, the company shall give a public notice of the proposed delisting in at least one English national daily with wide circulation, one Hindi national daily with wide circulation and one regional language newspaper of the region where the concerned stock exchanges are located.

(iii) **Step 3:** The company shall make an application to the stock exchange for delisting of shares.

Note: The fact of delisting shall be disclosed in the first annual report of the company prepared after the delisting.

Concerned Stock Exchange shall dispose the application within 30 working days from the date of receipt of complete application.

❖ **DELISTING OF SMALL COMPANIES:** (Chapter VII) (Regulation 27)

Equity shares of a company may be delisted from all the recognised stock exchanges where they are listed, without following the procedure in Chapter IV, if:

(i) If a company has paid – up capital not exceeding Rs.10 crores and Net Worth not exceeding 25 Crores as on the last date of preceding year and

(ii) the number of equity shares of the company traded on each such recognised stock exchange during the twelve calendar months immediately preceding the date of board meeting referred to in sub-regulation (1B) of regulation 8 is **less than ten per cent** of the total number of shares of such company;

Provided that where the share capital of a particular class of shares of the company is not identical throughout such period, the weighted average of the shares of such class shall represent the total number of shares of such class of shares of the company; and]c)the company has not been suspended by any of the recognised stock exchanges having nation-wide trading terminals for any non-compliance in the preceding one year;

(iii) at least ninety per cent. of such public shareholders give their positive consent in writing to the proposal for delisting, and have consented either to sell their equity shares at the price offered by the promoter or to remain holders of the equity shares even if they are delisted.

(iv) the promoter writes individually to all public shareholders in the company informing them of his intention to get the equity shares delisted, indicating the exit price together with then justification therefore and seeking their consent for the proposal for delisting;

(v) the promoter completes the process of inviting the positive consent and finalization of the proposal for delisting of equity shares within seventy five working days of the first communication made under clause (iv);

(vi) the promoter makes payment of consideration in cash within fifteen working days from the date of expiry of seventy five working days stipulated in clause (v)

COMPULSORY DELISTING (Regulation 24)	Compulsory Delisting means permanent removal of securities of a listed company from a stock exchange as a penalizing measure at the behest of the stock exchange for not making submission/complying with various requirements set out in the Listing agreement. A Stock Exchange may pass an order for delisting any equity shares of a company on any ground as prescribed in the Securities Contracts (Regulation) Act, 1956 and its rules. The decision on delisting shall be taken by a panel to be constituted by the stock exchange. The panel consists of: (i) Two directors of the stock exchange; (ii) One representative of the investors; (iii) One representative of the MCA or ROC; and (iv) The Executive Director or Secretary of the recognized stock exchanges. Before passing an order, a notice in this regard shall be published in one English national daily with wide circulation and one regional language newspaper of the region where the concerned recognized stock exchange is located.
POWER TO RELAX STRICT ENFORCEMENT OF REGULATIONS (REGULATION 25A)	(1) The Board may for reasons recorded in writing, grant relaxation from strict enforcement of any of the requirements of these regulations, if the Board is satisfied that the relaxation is in the interests of investors in securities and the securities market. (2) For seeking exemption under sub-regulation (1), the promoter or the acquirer or the company shall file an application with the Board, supported by a duly sworn affidavit, giving details for seeking such exemption and the grounds on which the exemption has been sought. (3) The promoter or the acquirer or the company, as the case may be, shall along with the application referred to under sub-regulation(2) pay an on-refundable fee of rupees fifty thousand, by way of direct credit in the bank account through NEFT/RTGS/IMPS or any other mode allowed by RBI or by way of a bankers cheque or demand draft payable in Mumbai in favour of the Board. (4) The Board may after affording reasonable opportunity of being heard to the applicant and after considering all the relevant facts and circumstances, pass a reasoned order either granting or rejecting the exemption or relaxation sought as expeditiously as possible.

UNIT 20: ISSUE OF SECURITIES
SEBI (ISSUE OF CAPITAL AND DISCLOSURE REQUIREMENTS) REGULATIONS, 2018

Chapter I	Preliminary
Chapter II	Initial Public Offer on Main Board
Chapter III	Right Issue
Chapter IV	Further Public Offer
Chapter V	Preferential Issue
Chapter VI	Qualified Institutional Placement
Chapter VII	IPO of Indian Depository Receipts
Chapter VIII	Right Issue of Indian Depository Receipts
Chapter IX	IPO of Small & Medium Enterprises
Chapter X	Innovator's Growth Platform (Institutional Trading Platform)
Chapter XI	Bonus Issue
Chapter XII	Miscellaneous

APPLICABILITY:

These regulations shall apply to the following:

- (a) an initial public offer by an unlisted issuer;
- (b) a rights issue by a listed issuer; where the aggregate value of the issue is **ten crore rupees or more**;
- (c) a further public offer by a listed issuer;
- (d) a preferential issue by a listed issuer;
- (e) a qualified institutions placement by a listed issuer;
- (f) an initial public offer of Indian depository receipts;
- (g) a rights issue of Indian depository receipts;
- (h) an initial public offer by a small and medium enterprise;
- (i) a listing on the **Innovator's Growth Platform** through an issue or without an issue; and
- (j) a bonus issue by a listed issuer.

Provided that in case of rights issue of size less than ten crore rupees, the issuer shall prepare the letter of offer in accordance with requirements as specified in these regulations and file the same with the Board for information and dissemination on the Board's website.

Provided further that these regulations shall not apply to issue of securities under clause (b), (d) and (e) of sub-regulation (1) of regulation 9 of Securities and Exchange Board of India (Substantial Acquisition of Shares and Takeovers) Regulations, 2011.

BASIS	IPO	FPO	RIGHT ISSUE
Eligibility Requirements	An Issuer can make an initial public offering (IPO) of equity shares, only if it fulfils the following conditions:- <u>The Company has:</u> (i) Net tangible assets of at least Rs.3 crore in each of the preceding 3 full financial years (12 months each), of which not more than 50% is held in monetary assets. <i>However, if more than 50% of the net tangible assets are held in monetary assets, the issuer has made firm commitments to utilize such excess monetary assets in its business or project. Further, the limit of 50% on monetary assets shall not be applicable in case the public offer is made entirely through offer for sale.</i> (ii) The company has a minimum average pre-tax operating profit of Rs. 15 Crores, calculated on a restated and consolidated basis, in each of these preceding three years; (iii) The Company has a Net worth of at least Rs.1 crore in each of the preceding 3 full years, calculated on a restated and consolidated basis; (iv) In case of change of name of the Company within the last one year, at least 50% of the revenue, calculated on restated & consolidated basis, for the preceding 1 full year is being earned by the company from the activity suggested by the new name ALTERNATIVE ELIGIBILITY NORMS FOR PUBLIC ISSUE: (DEC 2012) If a company does not satisfy the above conditions, it has to comply with the following conditions:- (a) If the public issue is made through the book – building process and the issuer undertakes to allot, at least 75% of the net offer to public, to qualified institutional buyers and to refund full subscription money if it fails to make the said minimum allotment to qualified institutional buyers.	a) An Issuer may make an FPO, if it has changed its name within the last one year, at least 50% of the revenue, calculated on restated & consolidated basis, for the preceding 1 full year is being earned by the company from the activity suggested by the new name; b) If above condition not satisfied then, If the public issue is made through the book – building process and the issuer undertakes to allot, at least 75% of the net offer to public, to qualified institutional buyers and to refund full subscription money if it fails to make the said minimum allotment to qualified institutional buyers.	No corresponding regulation
Pricing	FACE VALUE OF EQUITY SHARES (Regulation 27):	Same as IPO. In Regulation 29(4),	(1) The issuer shall decide the issue price,

	The disclosure about the face value of equity shares shall be made in the draft offer document, offer document, advertisements and application forms, along with the price band or the issue price in identical font size. PRICING (Regulation 28): FREE PRICING: A company may freely price its public issue of equity shares and in case of convertible securities, the Coupon Rate and Conversion Price, in consultation with Lead Manager or Book Building, as the case may be. The issuer shall undertake the book building process in the manner specified in Schedule XIII. PRICE AND PRICE BAND (Regulation 29): ➤ <u>For Book Building Process:</u> The issuer company has to announce price band in place of fixed price for the issue of securities. The price band shall be included in the red herring prospectus of the Company. ➤ <u>For Other than Book Building Process:</u> The issuer company has to fix price of issue of securities before submitting prospectus with the Registrar of Companies. (1) The issuer company can mention a price in the draft prospectus (in case of a fixed price issue) and floor price or price band in the red herring prospectus (in case of a fixed built issue) and determine the price at a later date before registering the prospectus with the Registrar of Companies. However, The Final prospectus registered with the Registrar of Companies should contain only one price. (2) The cap on the price band shall be less than or equal to 120% of the floor price. (3) The floor price or the final price should not be less than the face value of the securities. (4) If the floor price or price band is not mentioned in the red herring prospectus, the issuer company should	there should be 1 working day instead of 2 working days	in consultation with the lead manager(s), before determining the record date, which shall be determined in consultation with the designated stock exchange. (2) The issue price <u>shall not be less than the face value</u> of the specified securities. (that means it cannot be issued at discount) (3) The issuer shall disclose the issue price in the letter of offer filed with the Board and the stock exchange(s). (Almost Same, but narrow scope)
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	announce the floor price or price band in all the newspapers in which the pre – issue advertisement was released at least 2 working days before the opening of the bid. (5) The announcement referred to in sub-regulation (4) shall contain relevant financial ratios computed for both upper and lower end of the price band and also a statement drawing attention of the investors to the section titled “basis of issue price” of the offer document. (7) The announcement referred to in sub-regulation (4) and the relevant financial ratios referred to in sub-regulation (5) shall be disclosed on the websites of the stock exchange(s) and shall also be pre-filled in the application forms to be made available on the websites of the stock exchange(s).		
Differential Pricing	An issuer company can offer securities subject to the following provisions:- (i) It will only be offered to retail individual investors/employees. (ii) The value for making an application under this category shall not be more than Rs.2 lacs. (iii) The difference shall not be more than 10% of the price at which specified securities are offered to other categories of applicants excluding Anchor Investors; (iv) If the issuer company opts for alternate method of book building, the issuer company can offer securities to its employees at a price, lower than floor price and the difference between such price and floor price shall not be more than 10%. <u>Discount, if any, shall be expressed in rupee terms in the offer document.</u>	Same as IPO; One Clause Extra, as below: In case of composite issue, the price of the specified securities offered in the public issue may be different from the price offered in rights issue and justification for such price difference shall be given in the offer document.	No Corresponding regulation
Period of Subscription	(1) Except as otherwise provided in these regulations, an initial public offer shall be kept open for at least three working days and not more than ten working days. (2) In case of a revision in the price band, the issuer shall extend the bidding (issue) period disclosed in the	Same as IPO	The rights issue shall be kept open for subscription for a minimum period of fifteen days and for a maximum period of thirty days.

	red herring prospectus, for a minimum period of three working days, subject to the provisions of sub-regulation (1). (3) In case of force majeure, banking strike or similar circumstances, the issuer may, for reasons to be recorded in writing, extend the bidding (issue) period disclosed in the red herring prospectus (in case of a book built issue) or the issue period disclosed in the prospectus (in case of a fixed price issue), for a minimum period of three working days, subject to the provisions of sub-regulation (1).		
Minimum Subscription	(1) The minimum subscription to be received in the issue shall be at least ninety per cent. of the offer through the offer document, except in case of an offer for sale of specified securities: Provided that the minimum subscription to be received shall be subject to the allotment of minimum number of specified securities, as prescribed under the Securities Contracts (Regulation) Rules, 1957. (2) In the event of non-receipt of minimum subscription referred to in sub-regulation (1), all application monies received shall be refunded to the applicants forthwith, but not later than fifteen days from the closure of the issue.	Same as IPO	Same as IPO
Opening of Issue	(1) Subject to the compliance with the provisions of the Companies Act, 2013, a public issue may be opened <u>within twelve months</u> from the date of issuance of the observations by the Board under regulation 25; (2) An issue shall be opened after <u>at least three working days</u> from the date of registering, the red herring prospectus, in case of a book built issue and the prospectus, in case of a fixed price issue, with the Registrar of Companies.	(1) Subject to the compliance with the provisions of the Companies Act, 2013, a public issue may be opened <u>within twelve months</u> from the date of issuance of the observations by the Board under regulation 123(4); Provided that in case of a Fast track issue, the issue shall open within the period specifically stipulated under Companies Act, 2013; (2) In case of Shelf Prospectus, the first	Subject to the compliance with the provisions of the Companies Act, 2013, a Right issue may be opened <u>within twelve months</u> from the date of issuance of the observations by the Board under regulation 71; Provided that in case of a Fast track issue, the issue shall open within twelve months from the record date;

		issue may be opened within three months of issuance of observations by the Board; (3) An issue shall be opened after <u>at least three working days</u> from the date of registering, the red herring prospectus, in case of a book built issue and the prospectus, in case of a fixed price issue, with the Registrar of Companies.	
Application Money & Minimum Application Value	(1) A person shall not make an application in the net offer category for a number of specified securities that exceeds the total number of specified securities offered to the public. Provided that the maximum application by non-institutional investors shall not exceed total number of specified securities offered in the issue less total number of specified securities offered in the issue to qualified institutional buyers. (2) The issuer shall stipulate in the offer document the minimum application size in terms of number of specified securities which shall fall within the range of <u>minimum application value of Rs. 10,000 to Rs. 15,000.</u> (3) The issuer shall invite applications in multiples of the minimum application value, an illustration whereof is given in Part B of Schedule XIV. (4) The minimum sum payable on application per specified security shall be <u>at least 25% of the issue price:</u> Provided that in case of an offer for sale, the full issue price for each specified security shall be payable at the time of application. Explanation: For the purpose of this regulation, "minimum application value" shall be with reference to the issue price of the specified securities and not with reference to the amount payable on	Same as IPO	PAYMENT OPTIONS (REGULATION 88) The issuer shall give one of the following payment options to all the shareholders for each type of instrument: a) part payment on application with balance money to be paid in calls; or b) full payment on application: Provided that the part payment, if any, on application shall not be less than <u>twenty five per cent. of the issue price</u> and such issuer shall obtain the necessary regulatory approvals to facilitate the same.

	application.		
Manner of Calls	If the issuer proposes to receive subscription monies in calls, it shall ensure that the outstanding subscription money is called <u>within twelve months</u> from the date of allotment in the issue and if any applicant fails to pay the call money within the said twelve months, the equity shares on which there are calls in arrears along with the subscription money already paid on such shares <u>shall be forfeited</u>: Provided that it shall not be necessary to call the outstanding subscription money within twelve months, if the issuer has appointed a monitoring agency in terms of regulation 41.	Same as IPO	Same as IPO
Allotment Procedure & Basis of Allotment	(1) The issuer shall not make an allotment pursuant to a public issue if the number of prospective allottees is less than one thousand. <i>So, There must be minimum 1000 Prospective Allottees.</i> (2) The issuer shall not make any allotment in excess of the specified securities offered through the offer document <u>except</u> in case of oversubscription <i>for the purpose of rounding off</i> to make allotment, in consultation with the designated stock exchange. Provided that in case of oversubscription, an allotment of <u>not more than one per cent.</u> of the net offer to public may be made for the purpose of making allotment in minimum lots. (3) The allotment of specified securities to applicants other than to the retail individual investors and anchor investors shall be on a proportionate basis within the respective 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 in the offer document: Provided that the value of specified securities allotted to any person, except in case of employees, in pursuance of	Same as IPO	(1) The issuer shall not make any allotment in excess of the specified securities offered through the letter of offer. (2) Allotment shall be made in the following manner: a) Full allotment to those eligible shareholders who have applied for their rights entitlement either in full or in part and also to the renouncee(s), who has/have applied for the specified securities renounced in their favour, in full or in part, as adjusted for fractional entitlement b) Allotment to eligible shareholders who having applied for the specified securities in full to the extent of their rights entitlement and have also applied for additional specified securities, shall be made as far as possible on an equitable basis having due regard to the number of specified

	reservation made under clause (a) of sub-regulation (1) or clause (a) of sub-regulation (2) of regulation 33, shall not exceed two lakhs rupees for retail investors or up to five lakhs rupees for eligible employees. (4) The allotment of specified securities to each retail individual investor shall not be less than the minimum bid lot, subject to the availability of shares in retail individual investor category, and the remaining available shares, if any, shall be allotted on a proportionate basis. (5) The authorised employees of the designated stock exchange, along with the lead manager(s) and registrars to the issue, shall ensure that the basis of allotment is finalised in a fair and proper manner in accordance with the procedure as specified in Part A of Schedule XIV.		securities held by them on the record date, provided there is an under-subscribed portion after making allotment in (a) above. c) Allotment to the renouncees, who having applied for the specified securities renounced in their favour and also applied for additional specified securities, provided there is an under-subscribed portion after making full allotment specified in (a) and (b) above. The allotment of such additional specified securities may be made on a proportionate basis. (3) The authorised employees of the designated stock exchange along with the lead manager(s) and registrars to the issue shall ensure that the basis of allotment is finalised in a fair and proper manner as may be prescribed by the Board.
Allotment, Refund and Payment of Interest	(1) The issuer and lead manager(s) shall ensure that the specified securities are allotted and/or application monies are refunded or unblocked within such period as may be specified by the Board. (2) The lead manager(s) shall ensure that the allotment, credit of dematerialised securities and refund or unblocking of application monies, as may be applicable, are done electronically. (3) Where the specified securities are not allotted and/or application monies are not refunded or unblocked within the period stipulated in sub-regulation (1) above, the issuer shall undertake to pay interest at the rate of fifteen per cent. per annum to the investors and within	Same as IPO	Same as IPO

	such time as disclosed in the offer document and the lead manager(s) shall ensure the same.		
Release of Subscription Money	(1) The lead manager(s) shall confirm to the bankers to the issue by way of copies of listing and trading approvals that all formalities in connection with the issue have been completed and that the banker is free to release the money to the issuer or release the money for refund in case of failure of the issue. (2) In case the issuer fails to obtain listing or trading permission from the stock exchanges where the specified securities were to be listed, it shall refund through verifiable means the entire monies received within seven days of receipt of intimation from stock exchanges rejecting the application for listing of specified securities, and if any such money is not repaid within eight days after the issuer becomes liable to repay it, the issuer and every director of the company who is an officer in default shall, on and from the expiry of the eighth day, be jointly and severally liable to repay that money with interest at the rate of fifteen per cent. per annum. (3) The lead manager(s) shall ensure that the monies received in respect of the issue are released to the issuer in compliance with the provisions of Section 40 (3) of the Companies Act, 2013, as applicable.	Same as IPO	Same as IPO
IPO Grading	The issuer may obtain grading for its initial public offer from one or more credit rating agencies registered with the Board. <i>(Its Optional)</i>	No Corresponding Regulation	No Corresponding Regulation
Underwriting	(1) If the issuer making an initial public offer, other than through the book building process, desires to have the issue underwritten, it shall appoint underwriters in accordance with the Securities and Exchange Board of India (Underwriters) Regulations, 1993. (2) If the issuer makes a public issue through the book building process, a) the issue shall be underwritten by lead manager(s) and syndicate member(s): Provided that at least seventy five per	Same as IPO	- If the issuer desires to have the issue underwritten, it shall appoint underwriters in accordance with the Securities and Exchange Board of India (Underwriters) Regulations, 1993. - The issue can be underwritten only to the extent of entitlement of

	cent. of the net offer proposed to be compulsorily allotted to qualified institutional buyers for the purpose of compliance of the eligibility conditions specified in sub-regulation (2) of regulation 6, cannot be underwritten. b) the issuer shall, prior to filing the prospectus, enter into underwriting agreement with the lead manager(s) and syndicate member(s), indicating therein the number of specified securities which they shall subscribe to at the predetermined price in the event of under-subscription in the issue. c) if the syndicate member(s) fail to fulfil their underwriting obligations, the lead manager(s) shall fulfil the underwriting obligations. d) the lead manager(s) and syndicate member(s) shall not subscribe to the issue in any manner except for fulfilling their underwriting obligations. e) in case of every underwritten issue, the lead manager(s) shall undertake minimum underwriting obligations as specified in the Securities and Exchange Board of India (Merchant Bankers) Regulations, 1992. f) where the issue is required to be underwritten, the underwriting obligations should at least to the extent of minimum subscription.		shareholders other than the promoters and promoter group. In case of every underwritten issue, the lead manager(s) shall undertake minimum underwriting obligations as specified in the Securities and Exchange Board of India (Merchant Bankers) Regulations, 1992.
Minimum Promoters Contribution	(1) The promoters of the issuer shall hold at least twenty per cent. of the post-issue capital: <i>Provided that in case the post-issue shareholding of the promoters is less than twenty per cent., alternative investment funds or foreign venture capital investors or scheduled commercial banks or public financial institutions or insurance companies registered with Insurance Regulatory and Development Authority of India may contribute to meet the shortfall in minimum contribution as specified for the promoters, subject to a maximum of ten per cent. of the post-issue capital without being identified as promoter(s).</i> <i>Provided further that the requirement of</i>	(1) The promoters shall contribute in the public issue as follows: a) either to the extent of twenty percent of proposed issue size or to the extent of twenty percent of post issue capital; b) In case of a Composite Issue (FPO cum Right Issue), either to the extent twenty percent of proposed issue size or to the extent of twenty percent of post issue capital excluding rights issue component;	No Corresponding Regulation

	<i>minimum promoters' contribution shall not apply in case an issuer does not have any identifiable promoter.</i> (2) The minimum promoters' contribution shall be as follows: a) the promoters shall contribute twenty per cent. as stipulated in sub-regulation (1), as the case may be, either by way of equity shares or by way of subscription to convertible securities: Provided that if the price of the equity shares allotted pursuant to conversion is not pre-determined and not disclosed in the offer document, the promoters shall contribute only by way of subscription to the convertible securities being issued in the public issue and shall undertake in writing to subscribe to the equity shares pursuant to conversion of such securities. b) in case of any issue of convertible securities which are convertible or exchangeable on different dates and if the promoters' contribution is by way of equity shares (conversion price being pre-determined), such contribution shall not be at a price lower than the weighted average price of the equity share capital arising out of conversion of such securities. c) subject to the provisions of clause (a) and (b) above, in case of an initial public offer of convertible debt instruments without a prior public issue of equity shares, the promoters shall bring in a contribution of at least twenty per cent. of the project cost in the form of equity shares, subject to contributing at least twenty per cent. of the issue size from their own funds in the form of equity shares: Provided that if the project is to be implemented in stages, the promoters' contribution shall be with respect to total equity participation till the respective stage vis-à-vis the debt raised or proposed to be raised through the public issue. (3) The promoters shall satisfy the requirements of this regulation at least <u>one day prior</u> to the date of opening of the issue.	(2) In case of a Public Issue or Composite Issue of Convertible Securities, The minimum promoters' contribution shall be as follows: a) the promoters shall contribute twenty per cent. as stipulated in sub-regulation (1), as the case may be, either by way of equity shares or by way of subscription to convertible securities: Provided that if the price of the equity shares allotted pursuant to conversion is not pre-determined and not disclosed in the offer document, the promoters shall contribute only by way of subscription to the convertible securities being issued in the public issue and shall undertake in writing to subscribe to the equity shares pursuant to conversion of such securities. b) in case of any issue of convertible securities which are convertible or exchangeable on different dates and if the promoters' contribution is by way of equity shares (conversion price being pre-determined), such contribution shall not be at a price lower than the weighted average price of the equity share capital arising out of conversion of such securities. (3) In case of a FPO or Composite Issue, where the promoters contribute more than	
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	(4) In case the promoters have to subscribe to equity shares or convertible securities towards minimum promoters' contribution, the amount of promoters' contribution shall be kept in an escrow account with a scheduled commercial bank, which shall be released to the issuer along with the release of the issue proceeds: Provided that where the promoters' contribution has already been brought in and utilised, the issuer <u>shall give the cash flow statement</u> disclosing the use of such funds in the offer document; Provided further that where the minimum promoters' contribution is <u>more than one hundred crore rupees</u> and the initial public offer is for partly paid shares, the promoters shall bring in at least one hundred crore rupees before the date of opening of the issue and the remaining amount may be brought on a pro-rata basis before the calls are made to the public. Explanation: For the purpose of this regulation: (I) Promoters' contribution shall be computed on the basis of the post-issue expanded capital: (a) assuming full proposed conversion of convertible securities into equity shares; (b) assuming exercise of all vested options, where any employee stock options are outstanding at the time of initial public offer in terms of proviso (a) to sub-regulation (2) of regulation 5. (II) For computation of "weighted average price": (a) "weight" means the number of equity shares arising out of conversion of such specified securities into equity shares at various stages; (b) "price" means the price of equity shares on conversion arrived at after taking into account the predetermined conversion price at various stages.	the stipulated minimum promoters contribution, the allotment with respect to excess contribution shall be made at a price determined in terms of provisions of regulation 164 or the issue price, whichever is higher; (4) In case the promoters have to subscribe to equity shares or convertible securities towards minimum promoters' contribution, the amount of promoters' contribution shall be kept in an escrow account with a scheduled commercial bank, which shall be released to the issuer along with the release of the issue proceeds: Provided further that where the minimum promoters' contribution is <u>more than one hundred crore rupees</u> and the initial public offer is for partly paid shares, the promoters shall bring in at least one hundred crore rupees before the date of opening of the issue and the remaining amount may be brought on a pro-rata basis before the calls are made to the public. Explanation: For the purpose of this regulation: (I) Promoters' contribution shall be computed on the basis of the post-issue expanded capital: (a) assuming full proposed conversion of convertible securities into equity shares; (b) assuming exercise of	
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		all vested options, where any employee stock options are outstanding at the time of initial public offer in terms of proviso (a) to sub-regulation (2) of regulation 5. (II) For computation of “weighted average price”: (a) “weight” means the number of equity shares arising out of conversion of such specified securities into equity shares at various stages; (b) “price” means the price of equity shares on conversion arrived at after taking into account the predetermined conversion price at various stages.	
Securities Ineligible for minimum promoters contribution	(1) For the computation of minimum promoters’ contribution, the following specified securities shall not be eligible: (a) specified securities acquired during the preceding three years, if these are: (i) acquired for consideration other than cash and revaluation of assets or capitalisation of intangible assets is involved in such transaction; or (ii) resulting from a bonus issue by utilisation of revaluation reserves or unrealised profits of the issuer or from bonus issue against equity shares which are ineligible for minimum promoters’ contribution; (b) specified securities acquired by the promoters and alternative investment funds or foreign venture capital investors or scheduled commercial banks or public financial institutions or insurance companies registered with Insurance Regulatory and Development Authority of India, during the preceding one year at a price lower than the price at which specified securities are being offered to the public in the initial public offer: Provided that nothing contained in this clause shall apply: (i) if the promoters and alternative investment funds, as applicable, pay to	(1) For the computation of minimum promoters’ contribution, the following specified securities shall not be eligible: (a) specified securities acquired during the preceding three years, if these are: (i) acquired for consideration other than cash and revaluation of assets or capitalisation of intangible assets is involved in such transaction; or (ii) resulting from a bonus issue by utilisation of revaluation reserves or unrealised profits of the issuer or from bonus issue against equity shares which are ineligible for minimum promoters’ contribution; (b) specified securities pledged with any creditor. (2) Specified securities	No Corresponding Regulation

	the issuer the difference between the price at which the specified securities are offered in the initial public offer and the price at which the specified securities had been acquired; (ii) if such specified securities are acquired in terms of the scheme under sections 391 to 394 of the Companies Act, 1956 or sections 230 to 234 of the Companies Act, 2013, as approved by a High Court or a tribunal or the Central Government, as applicable, by the promoters in lieu of business and invested capital that had been in existence for a period of more than one year prior to such approval; (iii) to an initial public offer by a government company, statutory authority or corporation or any special purpose vehicle set up by any of them, which is engaged in the infrastructure sector; (c) specified securities allotted to the promoters and alternative investment funds during the preceding one year at a price less than the issue price, against funds brought in by them during that period, in case of an issuer formed by conversion of one or more partnership firms or limited liability partnerships, where the partners of the erstwhile partnership firms or limited liability partnerships are the promoters of the issuer and there is no change in the management: Provided that specified securities, allotted to the promoters against the capital existing in such firms for a period of more than one year on a continuous basis, shall be eligible; (d) specified securities pledged with any creditor. (2) Specified securities referred to in clauses (a) and (c) of sub-regulation (1) shall be eligible for the computation of promoters' contribution if such securities are acquired pursuant to a scheme which has been approved by a High Court under the sections 391 to 394 of the Companies Act, 1956 or approved by a tribunal or the Central Government under sections 230 to 234 of the Companies Act, 2013.	referred to in clauses (a) and (c) of sub-regulation (1) shall be eligible for the computation of promoters' contribution if such securities are acquired pursuant to a scheme which has been approved by a High Court under the sections 391 to 394 of the Companies Act, 1956 or approved by a tribunal or the Central Government under sections 230 to 234 of the Companies Act, 2013.	
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General Condition	An issuer making an initial public offer shall ensure that: a) it has made an application to one or more stock exchanges to seek an in-principle approval for listing of its specified securities on such stock exchanges and <u>has chosen one of them as the designated stock exchange</u>, in terms of Schedule XIX; b) it has <u>entered into an agreement with a depository</u> for dematerialization of the specified securities already issued and proposed to be issued; c) all its specified securities held by the <u>promoters are in dematerialised</u> form prior to filing of the offer document; d) all its existing partly paid-up equity shares have either been <u>fully paid-up</u> or have been forfeited; e) it has made firm arrangements of finance through verifiable means towards seventy five per cent. of the stated means of finance for a specific project proposed to be funded from the issue proceeds, excluding the amount to be raised through the proposed public issue or through existing identifiable internal accruals. (2) The amount for <u>general corporate purposes</u>, as mentioned in objects of the issue in the draft offer document and the offer document shall <u>not exceed twenty five per cent.</u> of the amount being raised by the issuer.	Same as IPO	Same as IPO
Disclosures in Draft Offer Document and Offer Document	(1) Prior to making an initial public offer, the <u>issuer shall file three copies</u> of the draft offer document with the <u>concerned regional office of the Board</u> under the jurisdiction of which the registered office of the issuer company is located through the lead manager(s). (2) The lead manager(s) shall <u>submit the following</u> to the Board along with the draft offer document: a) a <u>certificate</u>, confirming that an agreement has been entered into between the issuer and the lead manager(s); b) a <u>due diligence certificate</u> as per Form A of Schedule V; c) in case of an issue of convertible debt		

	instruments, a due diligence certificate from the debenture trustee as per Form B of Schedule V; (3) The issuer shall also <u>file the draft offer document with the stock exchange(s)</u> where the specified securities are proposed to be listed, and submit to the stock exchange(s), the Permanent Account Number, bank account number and passport number of its promoters where they are individuals, and Permanent Account Number, bank account number, company registration number or equivalent and the address of the Registrar of Companies with which the promoter is registered, where the promoter is a body corporate. (4) The <u>Board may specify changes or issue observations</u>, if any, on the draft offer document within thirty days from the later of the following dates: a) the date of receipt of the draft offer document under sub-regulation (1); or b) the date of receipt of satisfactory reply from the lead manager(s), where the Board has sought any clarification or additional information from them; or c) the date of receipt of clarification or information from any regulator or agency, where the Board has sought any clarification or information from such regulator or agency; or d) the date of receipt of a copy of in-principle approval letter issued by the stock exchange(s). (5) If the Board <u>specifies any changes</u> or issues observations on the draft offer document, the <u>issuer and lead manager(s) shall carry out such changes</u> in the draft offer document and shall submit to the Board an updated draft offer document complying with the observations issued by the Board and <u>highlighting all changes made</u> in the draft offer document and before registering or filing the offer documents with the Registrar of Companies or an appropriate authority, as applicable. (6) If there are any changes in the draft offer document in relation to the matters specified in Schedule XVI, an updated offer document or a fresh draft offer document, as the case may be, shall be		
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	filed with the Board along with fees specified in Schedule III. (7) Copy of the offer documents shall also be filed with the Board and the stock exchange(s) through the lead manager(s) promptly after registering the offer documents with Registrar of Companies. (8) The draft offer document and the offer document shall also be furnished to the Board in a soft copy. (9) The lead manager(s) shall <u>submit the following documents</u> to the Board <u>after issuance</u> of observations by the Board or after expiry of the period stipulated in sub-regulation (4) of regulation 25 if the Board has not issued observations: a) a <u>statement</u> certifying that all changes, suggestions and observations made by the Board have been incorporated in the offer document; b) a <u>due diligence certificate</u> as per Form C of Schedule V, at the time of registering of the offer document; c) a <u>copy of the resolution</u> passed by the board of directors of the issuer for allotting specified securities to promoter(s) towards amount received against promoters' contribution, before opening of the issue; d) a <u>certificate from a statutory auditor</u>, before opening of the issue, certifying that promoters' contribution has been received in accordance with these regulations, accompanying therewith the names and addresses of the promoters who have contributed to the promoters' contribution and the amount paid and credited to the issuer's bank account by each of them towards such contribution; e) a <u>due diligence certificate</u> as per Form D of Schedule V, in the event the issuer has made a disclosure of any material development by issuing a public notice pursuant to para 4 of Schedule IX.		
Draft Offer Document & Offer Document to be made Public	(1) The draft offer document filed with the Board shall be <u>made public for comments</u>, if any, <u>for a period of at least twenty one days</u> from the date of filing, by hosting it on the websites of the Board, stock exchanges where		

	specified securities are proposed to be listed and lead manager(s) associated with the issue. (2) The issuer shall, <u>within two days of filing</u> the draft offer document with the Board, <u>make a public announcement</u> in one English national daily newspaper with wide circulation, one Hindi national daily newspaper with wide circulation and one regional language newspaper with wide circulation at the place where the registered office of the issuer is situated, disclosing the fact of filing of the draft offer document with the Board and inviting the public to provide their comments to the Board, the issuer or the lead manager(s) in respect of the disclosures made in the draft offer document. (3) The lead manager(s) shall, after expiry of the period stipulated in sub-regulation (1), <u>file with the Board, details of the comments received</u> by them or the issuer from the public, on the draft offer document, during that period and the consequential changes, if any, that are required to be made in the draft offer document. (4) The issuer and the lead manager(s) shall ensure that the offer documents are <u>hosted on the websites</u> as required under these regulations and its contents are the same as the versions as filed with the Registrar of Companies, Board and the stock exchanges, as applicable. (5) The lead manager(s) and the stock exchanges shall <u>provide copies of the offer document</u> to the public as and when requested and may charge a reasonable sum for providing a copy of the same.		
Security Deposit	(1) The issuer shall, before the opening of the subscription list, deposit with the designated stock exchange, an amount calculated at the rate of <u>one per cent. of the issue size</u> available for subscription to the public in the manner specified by Board and/or stock exchange(s). (2) The amount specified in sub-regulation (1) shall be refundable or forfeitable in the manner specified by the	Same as IPO	Same as IPO

	Board.		
Monitoring Agency	(1) If the issue size, excluding the size of offer for sale by selling shareholders, exceeds one hundred crore rupees, the issuer shall make arrangements for the use of proceeds of the issue to be monitored by a public financial institution or by a scheduled commercial bank named in the offer document as bankers of the issuer: Provided that nothing contained in this clause shall apply to an issue of specified securities made by a bank or public financial institution or an insurance company. (2) The monitoring agency shall submit its report to the issuer in the format specified in Schedule XI on a quarterly basis, till at least ninety five per cent. of the proceeds of the issue, excluding the proceeds raised for general corporate purposes, have been utilised. (3) The board of directors and the management of the issuer shall provide their comments on the findings of the monitoring agency as specified in Schedule XI. (4) The issuer shall, within forty five days from the end of each quarter, publicly disseminate the report of the monitoring agency by uploading the same on its website as well as submitting the same to the stock exchange(s) on which its equity shares are listed.	Same as IPO	Same as IPO
Issue related Advertisement	(1) Subject to the provisions of the Companies Act, 2013, the issuer shall, <u>after registering the red herring prospectus</u> (in case of a book built issue) or prospectus (in case of fixed price issue) with the Registrar of Companies, make a pre-issue advertisement in one English national daily newspaper with wide circulation, Hindi national daily newspaper with wide circulation and one regional language newspaper with wide circulation at the place where the registered office of the issuer is situated. (2) The <u>pre-issue advertisement</u> shall be in the format and shall contain the disclosures specified in Part A of		

	Schedule X. Provided that the disclosures in relation to price band or floor price and financial ratios contained therein shall only be applicable where the issuer opts to announce the price band or floor price along with the pre-issue advertisement pursuant to sub-regulation (4) of regulation 29. (3) The issuer may release advertisements for issue opening and issue closing, which shall be in the formats specified in Parts B and C of Schedule X. (4) During the period the issue is open for subscription, no advertisement shall be released giving an impression that the issue has been fully subscribed or oversubscribed or indicating investors' response to the issue.		
Post Issue Advertisement	(1) The lead manager(s) shall ensure that an advertisement giving details relating to: • Subscription, • basis of allotment, • number, value and percentage of all applications including ASBA, • number, value and percentage of successful allottees for all applications including ASBA, • date of completion of despatch of refund orders, as applicable, or instructions to self-certified syndicate banks by the registrar, • date of credit of specified securities and • date of filing of listing application, etc. is released within ten days from the date of completion of the various activities in at least: • one English national daily newspaper with wide circulation, • one Hindi national daily newspaper with wide circulation and • one regional language daily newspaper with wide circulation at the place where registered office of the issuer is situated. (2) Details specified in sub regulation (1) shall also be placed on the websites of the stock exchange(s).	Same as IPO	Same as IPO

Post Issue responsibilities of Lead Manager	(1) The responsibility of the lead manager(s) shall continue until completion of the issue process and for any issue related matter thereafter. (2) The lead manager(s) shall regularly monitor redressal of investor grievances arising from any issue related activities. (3) The lead manager(s) shall continue to be responsible for post-issue activities till the applicants have received the securities certificates, credit to their demat account or refund of application monies and the listing agreement is entered into by the issuer with the stock exchange and listing or trading permission is obtained. (4) The lead manager(s) shall be responsible for and co-ordinate with the registrars to the issue and with various intermediaries at regular intervals after the closure of the issue to monitor the flow of applications from syndicate member(s) or collecting bank branches and/ or self-certified syndicate banks, processing of the applications including application form for ASBA and other matters till the basis of allotment is finalised, credit of the specified securities to the demat accounts of the allottees and unblocking of ASBA accounts/ despatch of refund orders are completed and securities are listed, as applicable. (5) Any act of omission or commission on the part of any of the intermediaries noticed by the lead manager(s) shall be duly reported by them to the Board. (6) In case there is a devolvement on the underwriters, the lead manager(s) shall ensure that the notice for devolvement containing the obligation of the underwriters is issued within ten days from the date of closure of the issue. (7) In the case of undersubscribed issues that are underwritten, the lead manager(s) shall furnish information in respect of underwriters who have failed to meet their underwriting devolvement to the Board, in the format specified in Schedule XVIII.	Same as IPO	Same as IPO
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Prohibition on payment of Incentives	Any person connected with the issue shall not offer any incentive, whether direct or indirect, in any manner, whether in cash or kind or services or otherwise to any person for making an application in the initial public offer, except for fees or commission for services rendered in relation to the issue.	Same as IPO	Same as IPO
Abridged Prospectus/ Letter of Offer	(1) The abridged prospectus shall contain the disclosures as specified in Part E of Schedule VI and shall not contain any matter extraneous to the contents of the offer document. (2) Every application form distributed by the issuer or any other person in relation to an issue shall be accompanied by a copy of the abridged prospectus.	Same as IPO	Same as IPO Name "Abridged Letter of Offer"
Reporting of Transactions of Promoters & Promoter Group	The issuer shall ensure that all transactions in securities by the promoter and promoter group between: • The date of filing of the draft offer document or offer document, as the case may be, and • The date of closure of the issue Shall be reported to the stock exchange(s), within twenty four hours of such transactions.	Same as IPO	Same as IPO

GREEN SHOE OPTION:

CONCEPT & BACKGROUND:

Green Shoe Company, an American company was the first company which was allowed to use this option; therefore, this option is known as Green Shoe Option. A green shoe option (GSO) provides the option of allotting equity shares in excess of the equity shares offered in the public issue as a post – listing price stabilizing mechanism.

In other words, Green Shoe Option means an option of allocating shares in excess of the shares included in the public issue and operating a post – listing price stabilizing mechanism for a period not exceeding 30 days, which is granted to a company to be exercised through a Stabilizing Agent.

In short, it is a mechanism for stabilizing prices of securities in the stock market through stabilizing agent.

Example: In India, ICICI bank has used Green Shoe Option in the first time in case of its public issue through book building mechanism in India.

Case Study: ABC Ltd. is planning to issue 2,00,000 shares, but in order to utilize the green shoe option, it actually issues 2,30,000 shares, in which case the over – allotment would be 30,000 shares. The company does not issue any new shares for the over – allotment.

The 30,000 shares used for the over – allotment are actually borrowed from the promoters with whom the stabilizing agent enters into a separate agreement. The company is required to be kept money received from the over – allotment in a separate bank account.

The Job of the stabilizing agent begins only after commencement of trading of share:

(i) In case the shares are trading at a price lower than the offer price, the stabilizing agent starts buying the shares by using the money lying in the separate bank account. In this manner, by buying the shares when others are selling, the stabilizing agent tries to put the brakes on falling prices. The shares so bought from the market are handed over to the promoters from whom they were borrowed.

(ii) In case the newly listed shares start trading at a price higher than the offer price, the stabilizing agent does not buy any shares. At this point, the company by exercising the green shoe option issues new shares to the stabilizing agent, which are in turn handed over to the promoters from whom the shares were borrowed.

PRICE STABILIZATION FUND: (JUNE 2009)

- ❖ The fund created to cause stabilization of share price of an entity specially after the public issue of securities is known as Price Stabilization Fund.
- ❖ The aim of the fund is to protect the share price from falling below the issue price. For the purpose of operating a price stabilization mechanism post listing the issuer company appoints a stabilization agent.
- ❖ The prime responsibility of SA shall be to stabilize post listing price of shares.
- ❖ To this end, SA shall determine the timing of buying the shares, the quantity to be bought, the price at which the shares are to be bought, etc.

The promoters or promoters' group shall not lend in excess of 15% of the total issue size. The details of the agreement between the company & stabilizing agent and the promoter & stabilizing agent must be disclosed in the draft prospectus, the draft Red Herring Prospectus, Red Herring Prospectus and the final prospectus.

REGULATION 57:

(1) Conditions & Process to be complied with:

a) **Authority**: the issuer has been authorized, by a resolution passed in the general meeting of shareholders approving the public issue, to allot specified securities to the stabilizing agent, if required, on the expiry of the stabilization period;

b) **Stabilizing Agent (SA)**: the issuer has appointed a lead manager as a stabilizing agent, who shall be responsible for the price stabilization process;

c) **Agreement between Company & SA**: prior to filing the draft offer document, the issuer and the stabilizing agent have entered into an agreement, stating all the terms and conditions relating to the green shoe option including fees charged and expenses to be incurred by the stabilizing agent for discharging its responsibilities;

d) **Agreement between SA & Promoters**: prior to filing the offer document, the stabilizing agent has entered into an agreement with the promoters or pre-issue shareholders or both for borrowing specified securities from them in accordance with clause (g) of this sub-regulation, specifying therein the maximum number of specified securities that may be borrowed for the purpose of allotment or allocation of specified securities in excess of the issue size (hereinafter referred to as the "over- allotment"), which shall not be in excess of fifteen per cent. of the issue size;

e) **Quantum of Over Allotment**: subject to clause (d), the lead manager, in consultation with the stabilizing agent, shall determine the amount of specified securities to be over-allotted in the public issue;

f) **Disclosures**: the draft offer document and offer document shall contain all material disclosures about the green shoe option specified in this regard in Part A of Schedule VI;

g) **Who can Lend Securities**: in case of an initial public offer pre-issue shareholders and promoters and in case of a further public offer pre-issue shareholders holding more than five per cent. specified securities and promoters, may lend specified securities to the extent of the proposed over-allotment;

h) **How Securities should be borrowed**: the specified securities borrowed shall be in dematerialised form and allocation of these securities shall be made pro-rata to all successful applicants.

i) **Time involved in the process**: The stabilization mechanism should be available for the period disclosed by the company in the prospectus, which shall not exceed 30 days from the date when trading permission was given by the exchange(s).

j) **Special Bank Account:** The stabilizing agent shall open a special account, distinct from the issue account, with a bank for crediting the monies received from the applicants against the over-allotment and a special account with a depository participant for crediting specified securities to be bought from the market during the stabilization period out of the monies credited in the special bank account.

k) **Return of Securities borrowed from Promoters:**

if SA bought securities from market: The specified securities bought from the market and credited in the special account with the depository participant shall be returned to the promoters or pre-issue shareholders immediately, in any case not later than two working days after the end of the stabilisation period.

If SA not able to buy securities from market: On expiry of the stabilisation period, if the stabilising agent has not been able to buy specified securities from the market to the extent of such securities over-allotted, the issuer shall allot specified securities at issue price in dematerialised form to the extent of the shortfall to the special account with the depository participant, within five days of the closure of the stabilisation period and such specified securities shall be returned to the promoters or pre-issue shareholders by the stabilising agent in lieu of the specified securities borrowed from them and the account with the depository participant shall be closed thereafter.

l) **Listing Application:** The issuer shall make a listing application in respect of the further specified securities allotted under sub-regulation (6), to all the stock exchanges where the specified securities allotted in the public issue are listed and the provisions of Chapter VII shall not be applicable to such allotment.

PREFERENTIAL ISSUE: (CHAPTER V)

CONDITIONS FOR PREFERENTIAL ISSUE (REGULATION 160A)	A listed issuer making a preferential issue of specified securities shall ensure that: a) all equity shares allotted by way of preferential issue shall be made <u>fully paid up</u> at the time of the allotment; b) a <u>special resolution</u> has been passed by its shareholders; c) <u>all</u> equity shares held by the proposed allottees in the issuer are in <u>dematerialised form</u>; d) the issuer is in <u>compliance with the conditions</u> for continuous listing of equity shares as specified in the listing agreement with the stock exchange where the equity shares of the issuer are listed and the SEBI (LODR), 2015, as amended, and any circular or notification issued by the Board thereunder; e) the issuer has <u>obtained the PAN of the proposed allottees</u>, except those allottees which may be exempt from specifying their Permanent Account Number for transacting in the securities market by the Board.
TENURE OF CONVERTIBLE SECURITIES (REGULATION 162)	The tenure of the convertible securities of the issuer shall not exceed eighteen months from the date of their allotment.
DISCLOSURE TO SHAREHOLDERS (REGULATION 163)	The issuer shall, <u>in addition to the disclosures required under the Companies Act, 2013 or any other applicable law</u>, disclose the following in the explanatory statement to the notice for the general meeting proposed for passing the special resolution: a) <u>objects</u> of the preferential issue; b) <u>maximum number</u> of specified securities to be issued; c) <u>intent</u> of the promoters, directors or key managerial personnel of the issuer to subscribe to the offer; d) <u>shareholding pattern</u> of the issuer before and after the preferential issue;

	e) <u>time frame</u> within which the preferential issue shall be completed; f) <u>identity</u> of the natural persons who are the ultimate beneficial owners of the shares proposed to be allotted and/or who ultimately control the proposed allottees, the percentage of post preferential issue capital that may be held by them and change in control, if any, in the issuer consequent to the preferential issue: g) <u>undertaking</u> that the issuer shall re-compute the price of the specified securities in terms of the provision of these regulations where it is required to do so; h) <u>undertaking</u> that if the amount payable on account of the re-computation of price is not paid within the time stipulated in these regulations, the specified securities shall continue to be locked- in till the time such amount is paid by the allottees. i) <u>disclosures</u> specified in Schedule VI, if the issuer or any of its promoters or directors is a <u>wilful defaulter</u>. (2) The issuer shall place a <u>copy of the certificate of its statutory auditors</u> before the general meeting of the shareholders considering the proposed preferential issue, certifying that the issue is being made in accordance with the requirements of these regulations. (3) Where the specified securities are issued on a preferential basis for <u>consideration other than cash</u>, the valuation of the assets in consideration for which the equity shares are issued shall be done by an independent valuer, which shall be submitted to the stock exchanges where the equity shares of the issuer are listed: Provided that if the stock exchange(s) is not satisfied with the appropriateness of the valuation, it may get the valuation done by any other valuer and for this purpose it may seek any information, as deemed necessary, from the issuer. (4) The special resolution shall <u>specify the relevant date</u> on the basis of which price of the equity shares to be allotted on conversion or exchange of convertible securities shall be calculated.
PRICING OF INFREQUENTLY TRADED SHARES (REGULATION 165)	Where the shares of an issuer <u>are not frequently traded</u>, the price determined by the issuer shall take into account the valuation parameters including book value, comparable trading multiples, and such other parameters as are customary for valuation of shares of such companies: Provided that the issuer shall submit a certificate stating that the issuer is in compliance of this regulation, obtained from an independent valuer to the stock exchange where the equity shares of the issuer are listed.

CHAPTER VII: IPO OF IDR

ELIGIBILITY CONDITIONS	(1) An issuer shall be eligible to make an issue of IDRs only if: a) the issuing company is <u>listed in its home country</u> for at least three immediately preceding years; b) the issuer is <u>not prohibited</u> to issue securities by any regulatory body; c) the issuer has a <u>track record of compliance</u> with the securities market regulations in its home country; d) any of its promoters or directors is <u>not a fugitive economic offender</u>. Explanation: For the purpose of this regulation, the term “home country” means the country where the issuer is incorporated and listed.
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	(2) The issue shall be <u>subject to the following conditions:</u> a) issue size shall not be less than <u>fifty crore</u> rupees; b) at any given time, there shall be <u>only one denomination</u> of IDRs of the issuer. c) issuer shall ensure that the <u>underlying equity shares</u> against which IDRs are issued have been or will be <u>listed in its home country</u> before listing of IDRs in stock exchange(s). d) issuer shall ensure that the underlying shares of IDRs shall <u>rank pari passu</u> with the existing shares of the same class. (3) The issuer shall ensure that: a) it has made an <u>application</u> to one or more stock exchanges to seek an <u>in-principle approval for listing</u> of the IDRs on such stock exchanges and has chosen one of them as the designated stock exchange, in terms of Schedule XIX; b) it has <u>entered into an agreement</u> with a depository for dematerialisation of the IDRs proposed to be issued; c) it has made <u>firm arrangements of finance</u> through verifiable means towards seventy five per cent. of the stated means of finance for the project proposed to be funded from issue proceeds, excluding the amount to be raised through the proposed issue of IDRs or through existing identifiable internal accruals, have been made. (4) The amount for general corporate purposes, as mentioned in objects of the issue in the draft offer document and the offer document, shall <u>not exceed twenty five per cent.</u> of the amount being raised by the issuer.
ALLOCATION IN THE ISSUE	(a) at least <u>fifty per cent.</u> of the issue shall be allotted to <u>qualified institutional buyers</u> on proportionate basis; (b) the <u>remaining portion</u> of the issue may be allocated among the categories of <u>non-institutional investors and retail individual investors</u> including employees, at the discretion of the issuer and the manner of allocation shall be disclosed in the offer document. Allotment to investors within a category shall be on <u>proportionate basis</u>: Provided that at least <u>thirty per cent.</u> of the IDRs being offered in the public issue shall be available for allocation to <u>retail individual investors</u> and in case of under-subscription in retail individual investor category, spill over to other categories to the extent of under subscription may be permitted.

CHAPTER VIII: RIGHT ISSUE OF IDR

ENTITIES NOT ELIGIBLE TO MAKE RIGHT ISSUE	An issuer shall not be eligible to make a rights issue of IDRs if – (a) at the time of undertaking the rights issue, the issuer is in <u>breach of ongoing material obligations</u> under the listing agreement and the Securities and SEBI LODR Regulations, 2015 as may be applicable to such issuer or <u>material obligations</u> under the deposit agreement entered into between the domestic depository and the issuer at the time of initial offering of IDRs; (b) any of its promoters or directors is a <u>fugitive economic offender</u>.
RENUNCIATION BY AN IDR HOLDER	<u>Unless the laws of the home jurisdiction of the issuer otherwise provide</u>, the rights issue shall be deemed to include a right exercisable by the person concerned to renounce the IDRs offered to the IDR holder in favour of any other person subject to applicable laws and the same shall be disclosed in the offer document.

DEPOSITORY	The domestic depository shall, in accordance with the depository agreement executed with the issuer at the time of initial offering of IDR, <u>take such steps as are necessary</u> to enable the IDR holders to have entitlements under the rights offering and issue additional IDRs to such IDR holders, <u>distribute the rights</u> to the IDR holders or renouncees or arrange for the IDR holders or renouncees to subscribe for any additional rights which are available due to lack of take-up by other holders of underlying shares.
PERIOD OF SUBSCRIPTION & ISSUE OF ALLOTMENT LETTERS	(1) A rights issue shall be open for subscription in India for a period as <u>applicable under the laws of its home country</u> <u>but in no case less than ten days</u>. (2) The issuing company shall ensure that it <u>sends the allotment letter</u> of rights to IDR holders at the time these are sent to shareholders of the issuing company as per the requirement of its home country or other jurisdictions where its securities are listed.

IPO BY SMALL & MEDIUM ENTERPRISES (CHAPTER IX)

ENTITIES NOT ELIGIBLE TO MAKE IPO	An issuer shall not be eligible to make an initial public offer: (a) if the issuer, any of its promoters, promoter group or directors or selling shareholders are <u>debarred from accessing the capital market</u> by the Board; (b) if any of the promoters or directors of the issuer is a promoter or director of <u>any other company</u> which is debarred from accessing the capital market by the Board; (c) if the issuer or any of its promoters or directors is a <u>wilful defaulter</u>. (d) if any of its promoters or directors is a <u>fugitive economic offender</u>. Explanation: The restrictions under clauses (a) and (b) shall not apply to the persons or entities mentioned therein, who were debarred in the past by the Board and the period of debarment is already over as on the date of filing of the draft offer document with the SME Exchange.
ELIGIBILITY REQUIREMENTS	(1) An issuer shall be eligible to make an initial public offer only if its <u>post-issue paid-up capital is less than or equal to ten crore rupees</u>. (2) An issuer, whose post issue face value capital is more than ten crore rupees and upto twenty five crore rupees, <u>may also issue specified securities</u> in accordance with provisions of this Chapter. (3) An issuer may make an initial public offer, if it <u>satisfies track record and/or other eligibility conditions of the SME Exchange(s)</u> on which the specified securities are proposed to be listed. Provided that In case of an issuer which had been a partnership firm or a limited liability partnership, the track record of operating profit of the partnership firm or the limited liability partnership shall be considered only if the financial statements of the partnership business for the period during which the issuer was a partnership firm or a limited liability partnership, <u>conform to and are revised in the format prescribed for companies under the Companies Act, 2013</u> and also comply with the following: a) <u>adequate disclosures</u> are made in the financial statements as required to be made by the issuer as per Schedule III of the Companies Act, 2013; b) the <u>financial statements are duly certified by auditors</u>, who have subjected themselves to the peer review process of the Institute of Chartered Accountants of India (ICAI) and hold a valid certificate issued by the Peer Review Board of the ICAI, stating that: (i) the accounts and the disclosures made are in accordance with the provisions of Schedule III of the Companies Act, 2013; (ii) the accounting standards prescribed under the Companies Act, 2013 have been followed;

	(iii) the financial statements present a true and fair view of the firm's accounts; Provided further that in case of an issuer formed out of merger or a division of an existing company, the track record of the resulting issuer shall be considered only if the requirements regarding financial statements as specified above in the first proviso are complied with.
ALLOCATION IN NET OFFER	The allocation in the net offer category shall be as follows: (<u>Book Building</u>) a) not less than thirty five per cent. to retail individual investors; b) not less than fifteen per cent. to non-institutional investors; c) not more than fifty per cent. to qualified institutional buyers, five per cent. of which shall be allocated to mutual funds: Provided that the unsubscribed portion in either of the categories specified in clauses (a) or (b) may be allocated to applicants in any other category: Provided further that in addition to five per cent. allocation available in terms of clause (c), <u>mutual funds</u> shall be eligible for allocation under the balance available for qualified institutional buyers. In an issue made <u>other than through the book building process</u>, the allocation in the net offer category shall be made as follows: (a) minimum fifty per cent. to retail individual investors; and (b) remaining to: (i) individual applicants other than retail individual investors; and (ii) other investors including corporate bodies or institutions, irrespective of the number of specified securities applied for; Provided that the unsubscribed portion in either of the categories specified in clauses (a) or (b) may be allocated to applicants in the other category. Explanation. - For the purpose of sub-regulation (2), if the retail individual investor category is entitled to more than fifty per cent. of the issue size on a proportionate basis, the retail individual investors shall be allocated that higher percentage.
APPLICATION & MINIMUM APPLICATION VALUE	The minimum application size shall be <u>one lakh rupees per application & in Multiples thereof;</u> The minimum sum payable on application per specified security shall at least be <u>twenty five per cent. of the issue price;</u> Provided that in case of an offer for sale, the <u>full issue price</u> for each specified security shall be payable on application.
ALLOTMENT PROCEDURE & BASIS OF ALLOTMENT	(1) The issuer shall <u>not make an allotment</u> pursuant to a public issue if the number of allottees in an initial public offer <u>is less than fifty.</u> (2) The issuer shall not make any allotment in excess of the specified securities offered through the offer document <u>except</u> in case of oversubscription for the purpose of rounding off to make allotment, in consultation with the designated stock exchange. Provided that in case of oversubscription, an allotment of <u>not more than ten per cent.</u> of the net offer to public may be made for the purpose of making allotment in minimum lots. (3) The allotment of specified securities to applicants other than retail individual investors and 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 in the offer document: Provided that the value of specified securities allotted to any person, except in case of employees, in pursuance of reservation made under clause (a) of sub-regulation (1) or clause (a) of sub-regulation (2) of regulation 254, shall not exceed two lakhs rupees.
MIGRATION OF SME EXCHANGE	A listed issuer whose post-issue face value capital is less than twenty five crore rupees may migrate its specified securities to SME exchange if its shareholders approve such migration by passing a special resolution through postal ballot to this effect and if such issuer fulfils the eligibility criteria for listing laid down by the SME exchange: Provided that the special resolution shall be acted upon if and only if the votes cast by shareholders other than promoters in favour of the proposal amount to at least two times the number of votes cast by shareholders other than promoter shareholders against the proposal. (Different meaning given to Special Resolution)
MIGRATION TO MAIN BOARD	An issuer, whose specified securities are listed on a SME Exchange and whose post-issue face value capital is more than ten crore rupees and up to twenty five crore rupees, may migrate its specified securities to the main board of the stock exchanges if its shareholders approve such a migration by passing a special resolution through postal ballot to this effect and if such issuer fulfils the eligibility criteria for listing laid down by the Main Board: Provided that the special resolution shall be acted upon if and only if the votes cast by shareholders other than promoters in favour of the proposal amount to at least two times the number of votes cast by shareholders other than promoter shareholders against the proposal. (Different meaning given to Special Resolution)

INNOVATOR's GROWTH PLATFORM (CHAPTER X)

APPLICABILITY	- The provisions of this Chapter shall apply to issuers seeking listing of their specified securities pursuant to an initial public offer or for only trading on a stock exchange of their specified securities without making a public offer. - The Innovator's Growth platform shall be accessible only to institutional investors and non-institutional investors and not to retail individual investors.
ELIGIBILITY	(1) An issuer which is intensive in the use of technology, information technology, intellectual property, data analytics, bio-technology or nano-technology to provide products, services or business platforms with substantial value addition shall be eligible for listing on the innovators growth platform, provided that as on the date of filing of draft information document or draft offer document with the Board, as the case may be, twenty five per cent of the pre-issue capital of the Issuer Company for at least a period of two years, should have been held by: - Qualified Institutional Buyers; - Family trust with net-worth of more than five hundred crore rupees, as per the last audited financial statements; - Accredited Investors for the purpose of Innovators Growth Platform; - The following regulated entities: - Category III Foreign Portfolio Investor; - An entity meeting all the following criteria: - It is a pooled investment fund with minimum assets under management of one hundred and fifty million USD;

	ii. It is registered with a financial sector regulator in the jurisdiction of which it is a resident; iii. It is resident of a country whose securities market regulator is a signatory to the International Organization of Securities Commission's Multilateral Memorandum of Understanding (Appendix A Signatories) or a signatory to Bilateral Memorandum of Understanding with the Board; iv. It is not resident in a country identified in the public statement of Financial Action Task Force as: a) a jurisdiction having a strategic Anti-Money Laundering or Combating the Financing of Terrorism deficiencies to which counter measures apply; or b) a jurisdiction that has not made sufficient progress in addressing the deficiencies or has not committed to an action plan developed with the Financial Action Task Force to address the deficiencies. Explanation: (a) The following entities shall be eligible to be considered as accredited investors for the purpose of innovators growth platform: (i) any individual with total gross income of fifty lakhs rupees annually and who has minimum liquid net worth of five crore rupees; or (ii) any body corporate with net worth of twenty five crore rupees. (b) Not more than ten per cent of the pre-issue capital may be held by Accredited Investors. (c) For the purpose of accreditation: The persons / corporate bodies who wish to get accreditation for the purpose of innovators growth platform, shall approach the stock exchanges or depositories and follow the procedures prescribed by the Board and / or such stock exchange or depository for the purpose of accreditation as an Accredited Investor, from time to time. (2) An issuer shall be eligible for listing on the institutional trading platform if none of the promoters or directors of the issuer company is a fugitive economic offender.
LISTING WITHOUT A PUBLIC ISSUE	(1) An issuer seeking listing of its specified securities without making a public offer, shall <u>file a draft information document</u> along with the necessary documents with the Board in accordance with these regulations along with the fee as specified in Schedule III of these regulations. (2) The draft information document <u>shall contain disclosures</u> as specified for the draft offer documents in these regulations as specified in Part A of Schedule VI. (3) The regulations relating to the following as stated under the Chapter of Initial Public Offer on Main Board shall not be applicable: - allotment; - issue opening or closing; - advertisements; - underwriting; - sub-regulation (2) of regulation 5; - pricing; - dispatch of issue material; and - other such provisions related to offer of specified securities to the public. - The Issuer shall obtain an <u>In-Principle approval from the stock exchanges</u> on which it proposes to get its specified securities listed; - The issuer <u>shall List its Securities</u> on the Recognized Stock Exchange(s) <u>within 30 days</u>: - From the date of issuance of observations by Board or - From the expiry of the period stipulated in sub-regulation (4) of regulation 25, if the

	Board has not issued any such observations. - Provisions relating to minimum public shareholding shall not be applicable. - The draft and final information document shall be approved by the board of directors of the issuer and shall be signed by all directors, the Chief Executive Officer, i.e., the Managing Director or Manager within the meaning of the Companies Act, 2013 and the Chief Financial Officer, i.e., the Whole-time Finance Director or any other person heading the finance function and discharging that function. - The signatories shall also certify that all disclosures made in the information document are true and correct. - In case of mis-statement in the information document or any omission therein, any person who has authorized the issue of information document shall be liable in accordance with the provisions of the Act and regulations made thereunder.
MINIMUM PUBLIC SHAREHOLDING & MINIMUM OFFER SIZE (REGULATION 285A)	(1) The issuer shall be in compliance with minimum public shareholding requirements specified in the Securities Contracts (Regulation) Rules, 1957. (2) The minimum offer size shall be ten crore rupees; inserted w.e.f. 05.04.2019
MINIMUM APPLICATION VALUE	The minimum application size shall be <u>Two lakh rupees</u> .
ALLOTMENT & ALLOCATION IN CASE OF IPO	(1) The number of allottees in the initial public offer shall at least be <u>Fifty</u>. (2) The allotment to institutional investors as well as non-institutional investors shall be on a proportionate basis. (3) The allotment to institutional investors may be on a discretionary or a proportionate basis whereas the allotment to non-institutional investors shall be on a proportionate basis. (Omitted) (4) The mode of allotment to institutional investors, i.e., whether discretionary or proportionate, shall be disclosed prior to or at the time of filing of the offer document. (Omitted) (5) In case of discretionary allotment to institutional investors, no institutional investor shall be allotted more than ten per cent. of the issue size. (Omitted) (3) Any under-subscription in the non-institutional investor category shall be available for subscription under the institutional investors' category.

BONUS ISSUE (CHAPTER XI)

Bonus shares mean shares issued by the company to its existing shareholders at free of cost. A Company may capitalize its profits by issuing fully – paid bonus shares provided the company has provisions in this regard.

When a company is prospectus and accumulates large distributable profits, it converts these accumulated profits into capital and divides the capital among the existing members in proportion to their entitlements.

Advantages

- Fund flow is not affected adversely.
- Market value of the Company's shares comes down to their nominal value by issue of bonus shares.

- (c) Market value of the members' shareholdings increases with the increase in number of shares in the company.
- (d) Bonus shares are not an income. Hence it is not a taxable income.
- (e) Paid – up share capital increases with the issue of bonus shares.

Sources:

A company may issue fully paid – up bonus shares to its members by utilizing the following sources:-

- (a) Free reserves;
- (b) The securities premium account; or
- (c) The capital redemption reserve account.

Note: No bonus shares shall be issued by capitalizing reserves created by the revaluation of fixed assets.

Conditions:

No company shall capitalize its profits or reserves for the purpose of issuing fully paid – up bonus shares, unless –

- (a) It is authorized by its articles;
- (b) It has, on the recommendation of the Board, been authorised in the general meeting of the company;
- (c) It has not defaulted in payment of interest or principal in respect of fixed deposits or debt securities issued by it;
- (d) It has not defaulted in respect of the payment of statutory dues of the employees, such as, contribution to provident fund, gratuity and bonus;
- (e) The partly paid – up shares, if any outstanding on the date of allotment, are made fully paid – up.

Note: Issue of Bonus shares in lieu of dividend is prohibited. As per the Companies (Share Capital and Debentures) Rules, 2014, the company which has once announced the decision of its Board recommending a bonus issue, shall not subsequently withdraw the same.

SEBI (ICDR) Regulations, 2018 for Bonus Issue

Conditions of Issue

- (i) Issue of bonus must be authorized by the articles of the company.

If there is no such provision in the articles of association, the issuer shall pass a resolution at its general body meeting making provisions in the articles of associations for Capitalisation of reserve;

- (ii) The Company should not have defaulted in the payment of any interest or principal in respect of its fixed deposits, debt securities issued by it.
- (iii) The company should not have defaulted in the payment of its statutory dues to the employees such as contribution to provident fund, gratuity and bonus.
- (iv) If there are any partly paid – up shares outstanding on the date of allotment, these shares should be made fully paid – up before the bonus issue is made.
- (v) any of its promoters or directors is not a Fugitive Economic Offender.

Restrictions on a Bonus Issue (Regulation 294)

(1) An issuer shall make a bonus issue of equity shares only if it has made reservation of equity shares of the same class in favour of the holders of outstanding compulsorily convertible debt instruments if any, in proportion to the convertible part thereof. *(that means Bonus Shares shall also be issued to holders of outstanding compulsorily convertible debt instruments)*

(2) The equity shares so reserved for the holders of fully or partly compulsorily convertible debt instruments, shall be issued to the holder of such convertible debt instruments or warrants at the time of conversion of such convertible debt instruments, optionally convertible instruments, warrants, as the case may be, on the same terms or same proportion at which the bonus shares were issued.

(3) **Sources of Bonus Issue:** A bonus issue shall be made only out of free reserves, securities premium account or capital redemption reserve account and built out of the genuine profits or securities premium collected in cash and reserves created by revaluation of fixed assets shall not be capitalised for this purpose.

(4) Without prejudice to the provisions of sub-regulation (3), bonus shares shall not be issued in lieu of dividends. *(that means company cannot say that they have made bonus issue and now they are not liable to pay dividends. Both are different.)*

Completion of a Bonus Issue (Regulation 295)

(1) An issuer, announcing a bonus issue after approval by its board of directors and not requiring shareholders' approval for capitalisation of profits or reserves for making the bonus issue, shall implement the bonus issue within fifteen days from the date of approval of the issue by its board of directors:

Provided that where the issuer is required to seek shareholders' approval for capitalisation of profits or reserves for making the bonus issue, the bonus issue shall be implemented within two months from the date of the meeting of its board of directors wherein the decision to announce the bonus issue was taken subject to shareholders' approval.

Explanation: For the purpose of a bonus issue to be considered as 'implemented' the date of commencement of trading shall be considered.

(2) A bonus issue, once announced, shall not be withdrawn.

UNIT 21: SECURITIES MARKET INTERMEDIARIES

INTRODUCTION	The Securities market intermediaries are an important link between investor, Issuer Company and the regulator. In other words, we cannot imagine any transaction in the capital market without Capital Market Intermediaries. They simply connect an investor with the user of funds in pursuance of SEBI regulations. Market intermediaries help investors to select investments by providing investment consultancy, market analysis and credit rating of investment instruments. The following are the Securities Market Intermediaries:- (a) Merchant Bankers (MB) (b) Registrars and Share Transfer Agents (RTA) (c) Underwriters (d) Bankers to issue (e) Debenture Trustees (f) Portfolio Manager (g) Foreign Institutional Investor (FII) (h) Stock – brokers and sub – brokers (i) Custodian (j) Investment Advisor (k) Credit Rating Agencies and Depository Participant
ROLE & FUNCTIONS OF SECURITIES MARKET INTERMEDIARIES (IN A PUBLIC ISSUE)	
MERCHANT BANKER	Merchant Banker means: ⇒ A person who manages; ⇒ the business of issue of securities ⇒ by making arrangements for selling, buying or subscribing to securities. It is obligatory on the part of Issuer Company to appoint a merchant banker in relation to any public issue like IPO, Right Issue, Buy Back & Delisting. A person who undertakes any assignment of merchant bankers shall first get it registered with SEBI under the provisions of SEBI (Merchant Banker) Regulations, 1992. Under clause 2 (cb) of SEBI (Merchant Banker) Regulations, 1992, Merchant Banker means any person who is engaged in the business of issue management either by making arrangements regarding selling, buying or subscribing to securities or acting as manager, consultant, adviser or rendering corporate advisory service in relation to such issue management. The Merchant banker undertakes the following activities including preparation of prospectus, advisory on projects, determining financial structure, due diligence, tie – up with financiers, allotment of shares and refunds:- (a) Managing of public issue of securities; (b) Preparation of prospectus/letter of offer; (c) Final allotment of shares and refund of application money; (d) Underwriting connected with the aforesaid public issue management business; (e) Managing/Advising on international offerings of debt/equity i. e. GDR, ADR, EDBs, FCCBs, FCEBs and bonds; (f) Private placement of securities; (g) Primary or satellite dealership of government securities; (h) Corporate advisory services with regard to takeovers, acquisition and disinvestment. SEBI (MERCHANT BANKERS) REGULATIONS, 1992 GRANT OF CERTIFICATE OF REGISTRATION: (i) Applicant shall be a Body Corporate other than NBFC; (ii) Applicant has in his employment a minimum of two persons who have the experience to conduct the business of Merchant Banker;

- (iii) Applicant, his partner, director or principal officer is not involved in any Litigation connected with securities market which has an adverse bearing on the business of applicant;
- (iv) Applicant has the professional qualification from an Institution recognized by the Government in Finance, Law or Business Management;

CAPITAL ADEQUACY:

The Capital Adequacy requirement shall be a Networth of not less than **5 CRORES**.

“Net Worth” means the sum of paid up capital and free reserves of the applicant at the time of making application.

RESPONSIBILITIES OF LEAD MANAGERS:

- No Lead Manager shall agree to manage or be associated with any issue unless
- His responsibilities relating to the issue mainly those of disclosures, allotment and refund are clearly defined, allocated and determined and
- A statement specifying such responsibilities is furnished to SEBI at least 1 month before the opening of the issue for subscription
- But where there are more than 1 Lead Merchant Banker to the issue the responsibility of each such LMB shall clearly be demarcated and the statement specifying such responsibilities shall be furnished to SEBI at least 1 month before the opening of issue for subscription.

MERCHANT BANKER NOT TO ACT AS SUCH FOR AN ASSOCIATE:

A Merchant Banker shall not lead manage any issue or be associated with any activity undertaken under any regulations made by SEBI, if:

- ⇒ He is a promoter or
- ⇒ A director or
- ⇒ An associate

of the issuer of securities or of any person making an offer to sell or purchase securities.

However, a MB who is an associate of such issuer or person may be appointed, if he is involved only in **marketing** of issue or offer.

A MB shall be deemed to be an “Associate of the issuer or person” if:

- (i) either of them controls, directly or indirectly through its subsidiary or holding, not less than 15% of voting rights in the other; or
- (ii) either of them, directly or indirectly, by itself or in combination with other persons, exercises control over the other; or
- (iii) there is a common director, excluding nominee director, amongst the issuer, its subsidiary or holding company and the MB.

MINIMUM UNDERWRITING OBLIGATION:

In respect of every issue to be managed, the LMB holding a certificate of Category 1 shall accept a minimum underwriting obligation of 5% of total underwriting commitment or Rs. 25 Lakhs whichever is less; but if the LMB is unable to accept the minimum underwriting obligation, that LMB shall make arrangement for having the issue underwritten to that extent by a MB associated with the issue and shall keep SEBI informed of such arrangement.

PROHIBITION TO ACQUIRE SHARES:

- No MB or any of its Directors, partners or manager or principal officer shall either on their own account or through their associates or relatives, enter into any transaction in securities of bodies corporate on the basis of unpublished price sensitive information obtained by them during the course of any professional assignment either from the clients or otherwise.
- Every MB to submit to SEBI complete particulars of any transaction for acquisition of securities of any body corporate whose issue is being managed by that MB,

	within 15 days from the date of entering into such transaction. • In case of any transaction for acquisition of securities made in pursuance of underwriting or market making obligation, the complete particulars of the transactions shall be submitted to SEBI on quarterly basis. PROCEDURE FOR INSPECTION: • SEBI empowers to appoint one or more persons as Inspecting Authority to undertake inspection of books of accounts, records, etc of the MB, to ensure that such books and records are maintained in the prescribed manner, the provisions of SEBI act and rules and obligations thereunder are complied with to investigate into complaints from investors, other MB or other persons on any matter having a bearing on activities of MB and to investigate Suo Moto in the interest of securities market business or investors interest into the working of the MB. • On Completion of inspection, the Inspecting Authority shall submit an Inspection Report to SEBI. SEBI or Chairman shall after consideration of inspection or investigation report take such action as SEBI or chairman may deem fit and appropriate. • SEBI may appoint a qualified auditor to investigate into the books of account or the affairs of the MB and such auditor shall have the same powers of the inspecting authority as referred above.
REGISTRAR AND TRANSFER AGENT (RTA) (JUNE 2018)	RTA means a person who works like a Registrar to an issue and transfer agent. A RTA is governed under the provisions of the SEBI (Registrar to an Issue and Share Transfer Agents) Regulations, 1993. Example: Karvy Computershare Pvt. Ltd. & Intime Spectrum Registry Ltd. Registrar to an Issue: Registrar to an issue means: ⇒ a person who finalizes the list of eligible allottees for a public issue. ⇒ He is responsible for rejecting the invalid applications and ⇒ also ensures crediting shares to the Demat accounts of the successful applicants. ⇒ He dispatches the refund orders to those applicants in whose favor no share has been allotted. Functions/Activities of Registrar to an Issue: (a) Collecting application from investors in respect of an issue; (b) Keeping proper record of applications and monies received from investors; (c) Determining the basis of allotment in consultation with the stock exchange; (d) Finalizing the list of allottees; (e) Processing and dispatching the allotment letters, refund orders or certificates etc. Share Transfer Agent: (June 2019, December 2018) ⇒ Share Transfer Agent means a person who keeps records of holders of the securities in connection with transfer and redemption of securities. ⇒ In India, it is obligatory to all listed companies to outsource the activities in relation to registration and transfer of securities. The Registrars to an Issue and Share Transfer Agents constitute an important category of intermediaries in the primary market. They render very useful services in mobilizing new capital and facilitating proper records of the details of the investors, so that the basis for allotment could be decided and allotment ensured as per SEBI Regulations. Pre – Issue Work: (a) Finalization of bankers to issue, list of branches, controlling and collecting branches. (b) Design of application form, bank schedule, pre – printed stationery. (c) Preparing and issuing detailed instructions on procedure to be followed by collecting and controlling branches. (d) Arranging, dispatch of application schedule for listing of applications to collecting and controlling branches.

	Issue Work: - Collection of daily figure from bankers to the issue. - Informing Stock Exchange/SEBI and providing necessary certificates to Lead Manager on closure of issue. - Scrutiny of application received from bankers to issue. - Reconciliation of number of applications, securities applied and money received with final certificate received from bank. - Finalizing basis of allotment after approval of the stock exchange. - Allotment of shares on the formula derived by stock exchange. - Obtaining certificate from auditors in connection with the allotment. - Preparation of the list of allottees and non – allottees as per the basis of allotment approved by stock exchange. - Preparation of allotment register, register of members, index register. - Preparing share certificate on the computer. - Mailing of documents by registered post. - Issuing call notices for allotment money to allottees. - Issue of duplicate refund order. CRITERIA FOR REGISTRATION: It shall assess whether the applicant: i) has any past experience in the activities; Capital Adequacy Requirement for Category I is Rs. 50,00,000/- and Category II is Rs. 25,00,000/-
UNDERWRITER	Underwriter means a person who engages in the business of underwriting of an issue of securities of a company. An underwriter assures the issuing company to take up shares or securities to a certain limit in case the company fails to collect minimum subscription from the General Public to the expected level. For this arrangement, the underwriter will enter into an agreement with the issuing company and the assuring party such as a financial institution, banks, merchant banker, or broker. Underwriting is mandatory for a public issue. It is necessary for a public company which invites public subscription for its securities to ensure that its issue is fully subscribed. In case of any short – fall, it has to be made good by underwriting arrangements made in advance of the opening of the public issue. APPLICATION FOR REGISTRATION: - the applicant shall have necessary infrastructure like adequate office space, equipments and manpower and past experience in underwriting, employing at least two persons with such experience. No person directly or indirectly connected with the applicant should have been granted registration by SEBI. SEBI shall take into account whether a previous application for a certificate of any person directly or indirectly connected with the applicant has been rejected by SEBI or any disciplinary action has been taken against such person under Act or rules or regulations; - The applicant should be a fit and proper person, fulfilling the capital adequacy requirement (at least Rs. 20,00,000/-) and no director, partner or principal officer should have been at any time convicted for an offence involving moral turpitude or found guilty of any economic offence.
BANKER TO AN ISSUE	Banker to an Issue means a scheduled bank which carries out the activities like: - Acceptance of application and application monies; - Acceptance of allotment or call monies; - Refund of application monies; - Payment of dividend or interest warrant during & after issue of securities.

	It also opens Escrow account for collection and utilization of public issue proceeds. The banks are expected to furnish prompt information and records to the issuer company and to the lead manager for monitoring and progressing the issue work. For this purpose, the company has to enter into an agreement with different banks specifying the conditions, terms and remuneration for services to be rendered by each such bank. APPLICATION FOR REGISTRATION: (i) The Applicant has the necessary infrastructure, communication and data processing facilities and manpower to effectively discharge his activities; (ii) The Applicant or any of its directors is not involved in any litigation connected with the securities market and which has an adverse bearing on the business of the applicant or has not been convicted of any economic offence;
DEBENTURE TRUSTEE	Debenture Trustee (DT) means a trustee of a trust deed for securing any issue of debentures of a Company. DT protects the interest of debenture holders in case the company fails to pay the principal as well as interest amount to the debenture holders. It is necessary that the company makes proper arrangements to extend assurances and comply with legal requirements in favour of the investors who are entitled to this type of security. The issuing company has to complete the process of finalizing and executing the trust deed or document and get it registered within the prescribed period and file the charge with the Registrar of Companies (ROC) in respect of the security offered. ROLE AND FUNCTIONS: (i) Call for periodical reports from the Company, i. e., issuer of debentures. (ii) Take possession of trust property in accordance with the provisions of the trust deed. (iii) Enforce security in the interest of the debenture holders. (iv) Ensure that the property charged to the debenture is available and adequate at all times to discharge the interest and principal amount payable in respect of the debentures and such property is free from any other encumbrances. (v) Exercise due diligence to ensure compliance by the Company with the provisions of the Companies Act and the listing agreement or the trust deed. (vi) To take appropriate measures for protecting interest of the debentures holders in case of any breach comes to notice. (vii) To ascertain that the debentures have been converted or redeemed as per law. (viii) Appoint a nominee director on the board of the Company, if required. APPLICATION FOR REGISTRATION: (i) has in employment at least one person who possesses the professional qualification in law from an institute recognized by Government; (ii) fulfills the capital adequacy requirements as may be specified; (Net Worth of Rs. 10 Crores) (Net Worth requirement increased from 2 Crores to 10 Crores w.e.f 07.05.2019) Provided that a debenture trustee holding certificate of registration as on the date of commencement of the Securities and Exchange Board of India (Debenture Trustees) (Amendment) Regulations, 2019 shall fulfil the networth requirements within three years from the date of such commencement. The Applicant shall be a schedule bank carrying on commercial activity, a public financial institution, an insurance company or a body corporate. DUTIES OF DEBENTURE TRUSTEES: (DEC 2016) i) Call for periodical reports from the body corporate; ii) take possession of trust property in accordance with the trust deed;

	iii) enforce security in the interest of debenture holders; iv) do such acts as necessary in the event the security becomes enforceable; v) carry out such acts as are necessary for the protection of the debenture holders and to do all things necessary in order to resolve the grievances of the debenture holders; vi) ascertain and specify that: ⇒ In case where the allotment letter has been issued and debenture certificate is to be issued after the registration of charge, the debenture certificates have been dispatched by the body corporate to the debenture holders within 30 days of the registration of charge with the ROC; ⇒ Debenture certificates have been dispatched to the debenture holders in accordance with the provisions of companies act; ⇒ Interest warrants for interest due on the debentures have been dispatched to the debenture holders on or before due dates; ⇒ Debenture holders have been paid the monies due to them on the date of redemption of debentures; vii) ensure on a continuous basis that the property charged to the debenture is available and adequate at all times to discharge the interest and principal amounts payable in respect of debentures and that such property is free from any other encumbrances. viii) Exercise due diligence to ensure compliance by body corporate, with the provisions of companies act, the listing agreement of stock exchange or trust deed; ix) inform SEBI immediately of any breach of trust deed or provision of any law; x) appoint a nominee director on the board of body corporate in the event of: ⇒ Two consecutive defaults in payment of interest to the debentures; or ⇒ Default in creation of security for debentures; or ⇒ Default in redemption of debentures xi) obtain a certificate from issuer's auditor: ⇒ In respect of utilization of funds during the implementation period of project; ⇒ In case of debentures issued for financing working capital at end of year. xii) Debenture trustee may inspect books of accounts, records, registers of body corporate and the trust property to the extent necessary for discharging its obligations.
PORTFOLIO MANAGER (JUNE 2018)	Any person who pursuant to contract or arrangement with the client, advises or directs or undertakes on behalf of the client, the management or administration of a portfolio of securities or the funds of the clients, as the case may be. A portfolio manager plays an important role in deciding the best investment plan for an individual as per his income, age as well as ability to undertake risks. A portfolio manager is responsible for making an individual aware of the various investment tools available in the market and benefits associated with each plan. Make an individual realize why he actually needs to invest and which plan would be the best for him. A portfolio manager is responsible for designing customized investment solutions for the clients according to their financial needs. <u>NORMS FOR REGISTRATION AS PORTFOLIO MANAGERS:</u> (a) the applicant is a body corporate; (b) the applicant has necessary infrastructure like adequate office space, equipment's and manpower to effectively discharge the activities of a portfolio manager;

(c) The principal officer of the applicant has the professional qualification in finance, law, accountancy or business management from an institution recognized by the Government or a Foreign University or an experience of at least 10 years in related activities in securities market including in a portfolio manager, stock broker or as a fund manager;

(d) The applicant has in its employment minimum two person who, between them, have at least five years experience as portfolio manager or stock broker or investment manager or in the areas related to fund management;

(e) any previous application for grant of certificate made by any person directly or indirectly connected with the applicant has been rejected by SEBI;

(f) any disciplinary action has been taken by board against a person directly or indirectly connected with the applicant; (person connected means any person being an associate, subsidiary, inter-connected company or company under same management or in same group)

(g) the applicant fulfills the capital adequacy requirements;

(h) The applicant, its director, principal officer or employee is involved in any litigation connected with the securities market which has an adverse bearing on business of the applicant;

(i) The applicant, its director, principal officer or the employee has at any time been convicted for any offence involving moral turpitude or has been found guilty of any economic offence;

(j) the applicant is a fit and proper person;

(k) Grant of certificate to the applicant is in the interest of investors;

CAPITAL ADEQUACY REQUIREMENT:

Portfolio manager must have capital adequacy requirement of not less than Networth of two crores rupees.

However, the portfolio manager shall fulfill capital adequacy requirement under these regulations, separately and independently of capital adequacy requirements if any for each activity undertaken by it under the relevant regulations.

Networth means aggregate value of paid up equity capital plus free reserves (excluding reserves created out of revaluation) reduced by the aggregate value of accumulated losses and deferred expenditure not written off, including miscellaneous expenses not written off.

PERIOD OF VALIDITY OF CERTIFICATE:

The certificate of registration granted and its renewal granted under these regulation shall be valid for a **period of three years** from date of its issue to applicant.

INTERNAL AUDIT OF PORTFOLIO MANAGER:

- ⇒ Every Portfolio Manager is required to appoint Practicing Company Secretary or a Practicing Chartered Accountant for conducting the internal audit.
- ⇒ The Portfolio Manager is required to report the compliance of the aforesaid requirement to SEBI while submitting the half yearly report.
- ⇒ The report is to be submitted twice a year, as on 31st March and 30th September. The report should reach SEBI within 30 days of period to which it relates.
- ⇒ No precise period has been prescribed for PCS or PCA to submit his report to the Board of Company. However, it is advisable for PCS or PCA to give the audit report to Portfolio manager sufficiently well in advance to enable the company to report

	compliance of same to SEBI. ⇒ Scope of internal audit would comprise of checking of compliance of SEBI (portfolio managers) regulations 1993 and circulars, notifications or guidelines issued by SEBI and internal procedures followed by the Portfolio Manager. INVESTMENTS OF CLIENTS MONEY: ⇒ The money or securities accepted by PM shall not be invested or managed by PM except in terms of agreement between PM and Client. ⇒ Any renewal of portfolio fund on maturity of initial period shall be deemed to be a fresh placement. ⇒ The funds or securities can be withdrawn or taken back by client before the maturity of contract under following circumstances: ○ Voluntary or compulsory termination of Portfolio Management services by PM or Client; ○ Suspension or cancellation of certificate of registration of PM by SEBI; ○ Bankruptcy or liquidation of PM; ⇒ The PM shall not while dealing with the client's funds indulge in speculative transactions that is, he shall not enter into any transaction for purchase or sale of any security which is periodically or ultimately settled otherwise than by actual delivery or transfer of security <u>except the transaction in derivatives.</u> ⇒ PM shall ordinarily purchase or sell securities separately for each client. However, in the event of aggregation of purchase or sales for economy of scale, inter se allocation shall be done on a pro rata basis and at weighted average price of day's transactions. The PM shall not keep any open position in respect of allocation of sales or purchases effected in a day. ⇒ Any transaction of purchase or sales including that between PM's own accounts and client's accounts or between two client's account shall be at the prevailing market price. ⇒ PM shall segregate each client's funds and portfolio of securities and keep them separately from his own funds and securities and be responsible for safekeeping of client's funds and securities. ⇒ Each PM shall appoint a custodian in respect of securities managed or administered by it. However, this regulation shall not apply to a PM who has total AUM of value less than Rs, 500 Crores or who performs purely advisory functions.
SYNDICATE MEMBER (December 2017)	Syndicate Member is an intermediary registered with SEBI and who is permitted to carry on the activity as an underwriter or as a broker. The Book Runner (Merchant Bankers) may appoint those intermediaries who are registered with the SEBI and who are permitted to carry on activity as an 'Underwriter' as syndicate members. The syndicate members are mainly appointed to collect the entire bid forms in a book built issue. He is a member of the Stock Exchange to whom the investor has to submit the IPO Bid/Application form who receives the bid and upload the same on to the electronic book of the stock exchange. He then submits the bid with cheque to the bankers. In case of online application, the Syndicate Member/Broker generates the electronic application form and submits the same to the Registrar with proof of having paid the bid amount. <u>FUNCTIONS AND ROLES:</u> (a) A Syndicate Member (Broker) is a member of the Stock Exchange to whom the investor has to submit the IPO Bid/Application form. (b) The Syndicate Member receives the bid and uploads the same on to the electronic book of the stock exchange. Bids which are not uploaded into the electronic book are not considered for the purpose of allotment.

	(c) The Syndicate Member then submits the bid with cheque to the bankers. In case of online submits the same to the Registrar with proof of having paid the bid amount.
FOREIGN INSTITUTIONAL INVESTOR (FII)	FII means an institution established outside India which proposes to make investment in India in securities. FII must register itself with SEBI for accessing Indian Stock Market. In simple words, FIIs are those institutional investors which invest in the assets belonging to a different country other than that where these organizations are based. Functions and Role: After registration with SEBI, FIIs can invest in the securities available in the Indian primary and secondary markets including the investments in equity/debentures/warrants/other securities/instruments of listed or unlisted companies. FII plays a very important role in any economy. There are no restrictions on the volume of investment in terms of minimum or maximum for the purpose of entry of FIIs and these investments are not subject to lock – in period. These are the big companies such as investment banks, mutual funds etc, who invest considerable amount of money in the Indian markets. With the buying of securities by these big players, markets tend to move upward and vice – versa. They have strong influence on the total inflows coming into the economy.
STOCK – BROKER	Stock Banker is a member of stock exchange and they are intermediaries who are allowed to trade in securities on the exchange. They buy and sell on their own behalf as well as on behalf of their clients. A stock broker plays an important role in the secondary market helping both the seller and the buyer of the securities to enter into a transaction. When executing an order the stock broker may on behalf of his client buy or sell securities from his own account i. e. as principal acts, as an agent. <u>APPLICATION FOR REGISTRATION:</u> ❖ An Application by a stock broker for grant of registration of a certificate of registration shall be made through the stock exchange of which he is admitted as a member. ❖ The stock exchange shall forward the application form to SEBI as early as possible but not later than 30 days from the date of its receipt. ❖ SEBI may require the applicant to furnish such further information or clarifications regarding the dealings in securities and related matters to consider the application for granting a certificate of registration. ❖ The applicant or its principal officer shall, if so required, appear before SEBI for personal representation. SEBI shall take into account following aspects: (i) Whether the applicant is eligible to be admitted as a member of a stock exchange; (ii) Whether he has any past experience in the business of buying, selling or dealing in securities; (iii) Whether he was subjected to disciplinary proceedings under rules, regulations and bye laws of a stock exchange with respect to his business as a stock broker involving either himself or any of its partner, directors or employees; ❖ SEBI on being satisfied that the stock broker is eligible, shall grant a certificate of registration to him and send an intimation to that effect to the stock exchange. The stock broker holding a certificate shall at all times abide by code of conduct. <u>REJECTION OF APPLICATION OF BROKERS:</u> ⇒ SEBI may reject the application after giving a reasonable opportunity of being heard if application does not fulfill the requirements. ⇒ The refusal to grant registration shall be communicated by SEBI within 30 days of such refusal to concerned stock exchange and to the applicant stating the grounds on which the application has been rejected. ⇒ An Applicant may, being aggrieved by the decision of SEBI, may apply within a

	period of 30 days from date of receipt of intimation, to SEBI for reconsideration of its decision. ⇒ SEBI shall reconsider an application made and communicate its decision as soon as possible in writing to the applicant and to concerned stock exchange. ⇒ Stock broker whose application for grant of a certificate has been refused by SEBI shall not, on and from the date of receipt of SEBI communication, buy, sell or deal in securities as a stock broker.
SUB – BROKER	Sub – broker means any person not being a member of stock exchange who acts on behalf of a stock broker as an agent or otherwise for assisting the investors in buying, selling or dealing in securities through such stock brokers. A sub – broker is one who works along with the main broker and is not directly registered with the stock exchange as a member. He acts on behalf of the stock broker as an agent or otherwise for assisting the investors in buying, selling or dealing in securities through such stock brokers. <u>REGISTRATION BY SUB BROKERS:</u> <u>In case of an Individual:</u> (a) the applicant is not less than 21 years of age; (b) the applicant has not been convicted of any offence involving fraud or dishonesty; (c) the applicant has at least passed 12th Standard equivalent examination from an institution recognized by Government. However, SEBI may relax this criterion on merits having regards to applicants experience; (d) the applicant is a fit and proper person; <u>In case of Partnership or Body Corporate:</u> The partners or directors as the case may be shall comply with the requirements stated above. It is also to be assessed whether the applicant has necessary infrastructure like adequate office space, equipment and manpower to effectively discharge his activities. The applicant should be person recognized by the stock exchange as a sub broker affiliated to a member broker of stock exchange. The stock exchange shall forward the application form of such applicants, along with recommendation letter issued by stock broker with whom he affiliated along with a recognition letter issued by stock exchange to SEBI within 30 days from date of its receipt. <u>Any Registration granted by SEBI shall be subject to the following conditions:</u> (a) he shall abide by rules, regulations and bye laws of stock exchange which are applicable to him; (b) where the sub broker proposes to change his status or constitution, he shall obtain prior approval SEBI for continuing to act as such after the change; (c) he shall pay fees charged by SEBI; (d) he shall take adequate steps for Redressal of grievances, of investor within one month of date of receipt of complaint and keep SEBI informed about the number, nature and other particular of complaints received from such investors; and (e) he is authorized in writing by a stock broker being a member of a stock exchange for affiliating himself in buying, selling or dealing in securities. <u>REGISTRATION OF TRADING & CLEARING MEMBERS:</u> ⇒ Application for grant of certificate of registration by a clearing member or self-clearing member of clearing corporation or clearing house of a derivative exchange shall be made through the concerned clearing corporation or clearing house of which he is a member. ⇒ The concerned exchange shall forward the application to SEBI as early as possible but not later than 30 days from the date of its receipt. ⇒ SEBI may require the applicant or concerned stock exchange or clearing house or corporation to furnish such other information or clarification regarding the trading

	and settlement in derivatives and matter connected thereto, to consider the application for grant of a certificate. ⇒ The applicant or its principal officer, if so required shall appear before the SEBI for personal representation. SEBI shall take into account following aspects while considering the application, namely: (i) Whether the applicant is eligible to be admitted as a trading member or a clearing member as the case may be; (ii) Whether the applicant has necessary infrastructure; (iii) Whether he is/was subjected to disciplinary procedures under Rules, Regulations and bye laws of any stock exchange; (iv) whether the applicant has any financial liability which is due and payable to SEBI; An applicant who desires to act as a clearing member shall have minimum net worth of Rs. 300 Lakhs and shall deposit at least a sum of Rs. 50 Lakhs or higher amount with a clearing corporation or a clearing house. An applicant, who desires to act as a self-clearing member, in addition shall comply with the requirement of minimum Net worth of Rs. 100 Lakhs and shall deposit at least a sum of Rs. 50 lakhs or higher amount with the clearing corporation. <i>“ Net worth in this context shall mean paid up capital plus free reserves and other securities approved by SEBI (but does not include fixed assets, pledged securities, value of members card, bad deliveries, doubtful debts and advances of more than three months and debts given to associated persons of member), prepaid expenses, losses, intangible assets and 30% value of marketable securities.”</i>
CUSTODIAN (JUNE 2018)	A custodian is a person who carries on the business of providing custodial services to the client. The custodian keeps the custody of the client. The custodian also provides incidental services such as maintaining the accounts of securities of the client, collecting the benefits or rights accruing to the client in respect of securities. Every custodian should have adequate facilities, sufficient capital and financial strength to manage the custodial services. <u>ROLES AND RESPONSIBILITIES:</u> (i) Administrate and protect the assets of the clients. (ii) Open a separate custody account and deposit account in the name of each client. (iii) Record assets. (iv) Conduct registration of securities. (v) Custodial services refer to the safeguarding of securities of a client. The activities relating to custodial services involve collecting the rights benefiting the client in respect of securities, maintaining the securities' account of the client, informing the clients about the actions taken or to be taken, and maintaining records of the services. <u>CONSIDERATION OF APPLICATION FOR GRANT OF CERTIFICATE:</u> (i) the applicant fulfils the capital requirement; (ii) the applicant has the necessary infrastructure, including adequate office space, vaults for safe custody of securities and computer systems capability, required to effectively discharge his activities as custodian of securities; (iii) the applicant has the requisite approvals under any law, in connection with providing custodial services in respect of gold or gold related instrument of a mutual fund, or title deeds of real estate assets held by a real estate mutual fund scheme; (iv) the applicant has in his employment adequate and competent persons who have the

	experience, capacity and ability of managing the business of the custodian of securities; (v) the applicant has prepared a complete manual, setting out the systems and procedures to be followed by him for the effective and efficient discharge of his functions and arms length relationships to be maintained with other businesses, if any, of the applicant; (vi) the applicant is a person who has been refused a certificate by SEBI or whose certificate has been cancelled by SEBI; (vii) the applicant, his directors or principal officer or any of his employees is involved in any litigation connected with securities market; (viii) the applicant, his directors or principal officer or any of his employees has at any time been convicted of any offence involving moral turpitude or of any economic offence; SEBI shall not consider an applicant unless the applicant is a body corporate. <u>CAPITAL REQUIREMENT:</u> The applicant must have a Net worth of minimum Rs. 50 Crores. However, any custodian of securities which has been approved by SEBI under provisions of SEBI (MF) Regulations, 1993 or SEBI (FII) regulations, 1995 or Government of India Guidelines for FII, even if it does not have the Net worth specified in above may continue to function as a custodian of securities and shall within one year raise its Net worth. The period may be extended by SEBI upto a maximum of 5 years.
INVESTMENT ADVISER	• Investment Adviser means any person, who for consideration, is engaged in the business of providing investment advice to clients or other persons or group of persons and includes any person who holds out himself as an investment adviser, by whatever name called. • The globalization of the capital markets, the proliferation of asset classes and the bewildering variety of risks that the average institutional investor is confronted with have increased the need for the specialized expertise that investment advisers provide. • Investment advisers serve as facilitators, making sure that all clients have many opportunities to express their financial concerns and issues. • Basically Investment advisers give advice and provide services related to the investment management process. • In order to add value, the investment adviser is called upon to apply specialized knowledge, experience and analytical resources to create and deliver focused advice to client and works to increase the investment knowledge of clients and thereby support the fiduciary obligations clients face in the management of their plan.
RESEARCH ANALYST	“Research analyst” means a person who is primarily responsible for,- i. preparation or publication of the content of the research report; or ii. providing research report; or iii. making ‘buy/sell/hold’ recommendation; or iv. giving price target; or v. offering an opinion concerning public offer, with respect to securities that are listed or to be listed in a stock exchange, whether or not any such person has the job title of ‘research analyst’ and includes any other entities engaged in issuance of research report or research analysis. There are basically three broad types of analysts, viz. sell-side analysts, buy-side analysts and independent analysts.

	– Sell-side Analysts- They typically publish research reports on the securities of companies or industries that they cover. These Research reports carry specific recommendations, such as recommendation to buy, hold, or sell the subject security. It also includes the analyst's expectation of the future price performance of the security ("price target"). – Buy-side Analysts-They generally work for money managers like mutual funds, hedge funds, pension funds, or portfolio managers that purchase and sell securities for their own investment accounts or on behalf of others. Research reports of these analysts are generally circulated among the top management of the employer firms as these reports contain advice about which securities to buy, hold or sell. – Independent Analysts- They work for research originators or boutique firms that are legal entities separate from full-service investment firms and sell their research to others on a subscription or other basis. The activities of Research Analyst in India are governed by the SEBI (Research Analysts) Regulations, 2014.
KYC REGISTRATION AGENCY	With a view to bring uniformity in the KYC requirements for the securities markets, SEBI has initiated usage of uniform KYC by all SEBI registered intermediaries. In this regard SEBI has issued the SEBI {KYC (Know Your Client) Registration Agency (KRA)}, Regulations, 2011. KRA provides for centralization of the KYC records in the securities market. The client who is desirous of opening an account/trade/deal with the SEBI registered Intermediary shall submit the KYC details through the KYC Registration form and supporting documents. The Intermediary shall perform the initial KYC and upload the details on the system of the KYC Registration Agency (KRA). This KYC information can be accessed by all the SEBI Registered Intermediaries while dealing with the same client. As a result, once the client has done KYC with a SEBI registered intermediary, he need not undergo the same process again with another intermediary. FUNCTIONS & OBLIGATIONS OF THE KRA: The KRA has the following functions and obligations – - KRA may prepare the Operating Instructions in co-ordination with other KRA(s) and issue the same to implement the requirements of these regulations. - KRA(s) shall have electronic connectivity and with other KRA(s) in order to establish inter-operability among KRAs. - KRA shall have a secure data transmission link with other KRA(s) and with each intermediary that uploads the KYC documents on its system and relies upon its data. - KRA shall be responsible for storing, safeguarding and retrieving the KYC documents and submit to SEBI or any other statutory authority as and when required. - KRA shall retain the KYC documents of the client, in electronic form for the period specified by Rules, as well as ensuring that retrieval of KYC information is facilitated within stipulated time period. - Any information updated about a client shall be disseminated by KRA to all intermediaries that avail of the services of the KRA in respect of that client. - KRA shall ensure that the integrity of the automatic data processing systems for electronic records is maintained at all times. - KRA shall take all precautions necessary to ensure that the KYC documents/records are not lost, destroyed or tampered with and that sufficient back up of electronic records is available at all times at a different place. - KRA shall have adequate mechanisms for the purposes of reviewing, monitoring and evaluating its controls, systems, procedures and safeguards. - KRA shall cause an audit of its controls, systems, procedures and safeguards to be carried out periodically and take corrective actions for deficiencies, if any and report to

	SEBI. (k) KRA shall take all reasonable measures to prevent unauthorized access to its database and have audit of its systems and procedures at regular intervals as prescribed by SEBI. (l) KRA shall have checks built in its system so that an intermediary can access the information only for the clients who approach him. (m) KRA shall appoint a compliance officer who shall be responsible for monitoring the compliance of the Act, rules and regulations, notifications, guidelines, instructions, etc., issued by SEBI or the Central Government and for redressal of client's grievances. The compliance officer shall immediately and independently report to SEBI any non-compliance observed by him. (n) KRA shall send a letter to each client after receipt of the KYC documents from the intermediary, confirming the client's details thereof. (o) KRA shall take adequate steps for redressal of the grievances of the clients within one month of the date of receipt of the complaint and keep the Board informed about the number, nature and other particulars of the complaints from such investors.
OBLIGATIONS OF INTERMEDIARIES UNDER PMLA 2002 (JUNE 2018)	Section 12 of the Prevention of Money Laundering Act, 2002 lays down following obligations on an intermediary: Every banking company, financial institution and intermediary shall: (A) maintain a record of all transactions, the nature and value of which may be prescribed, whether such transactions comprise of a single transaction or a series of transactions integrally connected to each other, and where such series of transactions take place within a month; (B) furnish information of transactions referred to in clause (a) to the Director within such time as may be prescribed; (C) verify and maintain the records of the identity of all its clients, in such a manner as may be prescribed. However, where the principal officer of an Intermediary or financial institution or intermediary, as the case may be has reason to believe that a single transaction or series of transactions integrally connected to each other have been valued below the prescribed limit so as to defeat the provisions of this section, such officer shall furnish information in respect of such transactions to the Director within the prescribed time. The records shall be maintained for a period of ten years from the date of cessation of the transactions between the clients of the banking company or financial institution or intermediary, as the case may be. CASH TRANSACTION REPORT The Prevention of Money Laundering Act, 2002 and the Rules thereunder require every intermediary to furnish details of the following cash transactions: (A) All cash transactions of the value of more than rupees ten lakhs or its equivalent in foreign currency. (B) All series of cash transactions integrally connected to each other which have been valued below rupees ten lakhs or its equivalent in foreign currency where such series of transactions have taken place within a month. INFORMATION TO BE MAINTAINED Intermediaries are required to maintain and preserve the following information in respect of transactions mentioned above. (i) the nature of the transactions; (ii) the amount of the transaction and the currency in which it was denominated; (iii) the date on which the transaction was conducted; and (iv) the parties to the transaction. REPORTING TO FINANCIAL INTELLIGENCE UNIT-INDIA

	The Intermediaries are required to adhere to the following: (a) The cash transaction report (CTR) (wherever applicable) for each month should be submitted to FIUIND by 15th of the succeeding month. (b) The Suspicious Transaction Report (STR) should be submitted within 7 days of arriving at a conclusion that any transaction, whether cash or non-cash, or a series of transactions integrally connected are of suspicious nature. The Principal Officer should record his reasons for treating any transaction or a series of transactions as suspicious. It should be ensured that there is no undue delay in arriving at such a conclusion. (c) The Principal Officer is responsible for timely submission of CTR and STR to FIU-IND; (d) Utmost confidentiality is to be maintained in filing of CTR and STR to FIU-IND. The reports may be transmitted by speed/registered post/fax at the notified address. SUSPICIOUS TRANSACTION REPORT The Prevention of Money Laundering Act, 2002 and the Rules notified thereunder require every intermediary to furnish details of suspicious transactions whether or not made in cash. Suspicious transaction means a transaction whether or not made in cash which, to a person acting in good faith – (a) gives rise to a reasonable ground of suspicion that it may involve the proceeds of crime; or (b) appears to be made in circumstances of unusual or unjustified complexity; or (c) appears to have no economic rationale or bonafide purpose.
SEBI (INTERMEDIARIES) REGULATIONS, 2008	
SIGNIFICANT CHANGES	1. Permanent Registration Subject to compliance with the SEBI Act, regulations, updation of relevant disclosures and payment of fees registration shall be permanent. 2. Registration for multiple activities The process for registration for undertaking multiple activities by the same intermediary has been simplified. 3. Registration Form- information divided into two parts Part 1 of the form will be disclosed and available to the public and Part II will contain such information which will be retained with SEBI as regulatory filing. 4. Fit and Proper person requirements The criteria to determine whether the intermediary is a Fit and Proper person have been revised and are now principle based. 5. Suspension/Cancellation of certificate of registration The manner of suspension/cancellation of any certificate granted to any person has been provided in the regulations. Consequently the SEBI (Procedure for holding enquiry by enquiry officer and imposing penalty) Regulations, 2002 has been repealed and SEBI (Intermediaries) Regulations, 2008 has taken place.
APPLICATION FOR GRANT OF REGISTRATION	(1) Regulation 3 provides that an application for grant of a certificate to act as an intermediary, shall be made to the SEBI in Form A of Schedule I with such additional information as required and the application fee, as specified. However, the applicant seeking registration to act as a stock broker or sub-broker or a trading member or a clearing member or a depository participant shall make the application along with such additional information through the stock exchange or through the clearing corporation of which the applicant is a member or trading member or through the depository in which the applicant proposes to act as a participant, as the case may be. (2) The stock exchange, the clearing corporation, the depository or the specified self regulatory organization, as the case may be, shall examine the eligibility of the applicant in terms of these regulations, relevant regulations and the rules, regulations or bye-laws

	of the concerned stock exchange, clearing corporation, depository or the self regulatory organization and forward the application with the application fees to SEBI along with its recommendation as early as possible but not later than thirty days of receipt of the complete application with the specified application fees. (3) An intermediary, who was granted a certificate under the relevant regulations prior to the commencement of these regulations in relation to such intermediary, may continue to act as such, subject to the following – (a) where the certificate was granted for a specified period, an application for grant of certificate under sub regulation (1) shall be made by the intermediary at least three months prior to the expiry of such period or three months prior to expiry of two years from the commencement of these regulations in relation to such intermediary, whichever is earlier and if the intermediary fails to do so, it shall cease to act as an intermediary on and from the expiry of the aforementioned period; (b) where a certificate has been granted to an intermediary on a permanent basis, the certificate may continue to be valid under these regulations subject to the condition that the intermediary shall, within two years of commencement of these regulations in relation to such intermediary, furnish the information in Form A to SEBI and upload the information in Part I thereof on the website specified by SEBI: However, the time may be extended by SEBI up to a period of six months on sufficient reasons being shown by the intermediary. (4) An intermediary who has complied with the provisions of these regulations shall be deemed to have been granted certificate under these regulations, subject to the payment of fees specified under the relevant regulations. (5) An applicant or an intermediary as the case may be, may carry on the activities of one or more intermediaries only if it obtains a separate certificate to carry on each such activity.
CONSIDERATION OF APPLICATION	As per regulation 7 while considering an applicant, SEBI shall take into account all matters which it deems relevant to the activities in the securities market, including but not limited to the following– (a) whether the applicant or any of its associates have in the past been refused certificate by SEBI and if so, the ground for such refusal; (b) whether the applicant, its directors or partners, or trustees, as the case may be or its principal officer is involved in any pending litigation connected with the securities market which has an adverse bearing on the business of the applicant or on development or functioning of the securities markets; (c) whether the applicant satisfies the eligibility criteria and other requirements; (d) whether the grant of a certificate to the applicant is in the interest of the investors and the development of the securities market. Any application for grant of certificate: (a) which is not complete in all respects and does not conform to the requirements in Form A and the requirements specified in the relevant regulation; (b) which does not contain such additional information as required; (c) which is incorrect, false or misleading in nature; (d) where the applicant is not in compliance with the eligibility requirements; (e) where the applicant is not a 'fit and proper person' as stated in Schedule II; (f) where the principal officer does not have the requisite qualification or experience as

	required under the relevant regulations; shall be rejected by SEBI for reasons to be recorded by SEBI in writing. Before rejecting an application, the applicant shall be given an opportunity in writing to make good the deficiencies within the time specified by SEBI, for the purpose. Where an application is rejected for the reason that it contains false or misleading information, no such opportunity may be given and the applicant shall not make any application for grant of certificate under these regulations or any other regulations for a period of one year from the date of such rejection.
CONDITIONS OF CERTIFICATE	Regulation 9 provides that any certificate granted by SEBI to an intermediary shall be subject to the following conditions, namely : – - where the intermediary proposes to change its status or constitution, it shall obtain prior approval of SEBI for continuing to act as an intermediary after such change in status or constitution. A request in this regard shall be disposed off by SEBI within a period of sixty days from the date of receipt of such request and where the decision of SEBI has not been communicated to the intermediary within the said period of sixty days, the prior approval shall be deemed to have been granted and it shall contain the information in Form A; - it shall pay the applicable fees in accordance with the relevant regulations; - it shall abide by the provisions of the securities laws and the directions, guidelines and circulars as may be issued thereunder; - it shall continuously comply with the requirements of disclosure norms; - it shall meet the eligibility criteria and other requirements specified. However, SEBI may impose other conditions as it may deem fit.
EFFECT OF REFUSAL TO GRANT REGISTRATION OR EXPIRY OF CERTIFICATE	Regulation 10 provides that where an intermediary has failed to make an application or where an existing intermediary has been refused grant of certificate under these regulations, the intermediary shall: - forthwith cease to act as such intermediary; - transfer its activities to another intermediary which has been granted a certificate for carrying on such activity and allow its clients or investors to withdraw or transfer their securities or funds held in its custody without any additional cost to such client or investor; - make provisions as regards liability incurred or assumed by the intermediary; - take such other action, within the time period and in the manner, as may be required. While refusing grant of certificate under these regulations to an intermediary, SEBI may impose such conditions upon the intermediary as it deems fit for protection of investors or clients of the intermediary or the securities market and such conditions shall be complied with.
PERIOD OF VALIDITY OF CERTIFICATE	The certificate granted to an intermediary shall be permanent unless surrendered by the intermediary or suspended or cancelled in accordance with these regulations.
REDRESSAL OF INVESTOR'S GRIEVANCES	Regulation 13 provides that the intermediary shall make endeavors to redress investor grievances promptly but not later than forty-five days of receipt thereof and when called upon by SEBI to do so it shall redress the grievances of investors within the time specified by SEBI. The intermediary shall at the end of each quarter of a Financial Year ending on 31st March upload information about the number of investor grievances received, redressed and those remaining unresolved beyond three months of the receipt thereof by the intermediary on the website specified by SEBI.
INSPECTION OF	The purposes may include:

BOOKS OF ACCOUNTS & RECORDS	(a) to ensure that the books of account, records including telephone records and electronic records and documents are being maintained in the manner required under the relevant regulations; (b) to ascertain whether adequate internal control systems, procedures and safeguards have been established and are being followed by the intermediary to fulfill its obligations under the relevant regulations; (c) to ascertain whether any circumstances exist which would render the intermediary unfit or ineligible; (d) to ascertain whether the provisions of the securities laws and the directions or circulars issued thereunder are being complied with; (e) to inquire into the complaints received from investors, clients, other market participants or any other person on any matter having a bearing on the activities of the intermediary; (f) to inquire <i>suo motu</i> into such matters as may be deemed fit in the interest of investors or the securities market. NOTICE BEFORE INSPECTION Regulation 18 stipulates that before undertaking an inspection, the inspecting authority shall give a notice to the concerned intermediary. If the inspecting authority is satisfied that in the interest of the investors no such notice should be given, it may, for reasons to be recorded in writing, dispense with such notice.
OBLIGATIONS OF INTERMEDIARY ON INSPECTION	Regulation 19 provides that – (1) It shall be the duty of every director, proprietor, partner, trustee, officer, employee and any agent of an intermediary which is being inspected, to produce to the inspecting authority such books, accounts, records including telephone records and electronic records and documents in his custody or control and furnish to the inspecting authority with such statements and information relating to its activities within such time as the inspecting authority may require. (2) The intermediary shall allow the inspecting authority to have reasonable access to the premises occupied by such intermediary or by any other person on its behalf and also extend reasonable facility for examining such documents. (3) The inspecting authority shall, in the course of inspection, be entitled to examine or record statements of any principal officer, director, trustee, partner, proprietor or employee of such intermediary. (4) It shall be the duty of every director, proprietor, trustee, partner, officer and employee of such intermediary to give to the inspecting authority all assistance which the inspecting authority may reasonably require in connection with the inspection.
CANCELLATION OR SUSPENSION OF CERTIFICATE	Regulation 23 provides that where any person who has been granted a certificate of registration under the Act or regulations made thereunder: (a) fails to comply with any conditions subject to which a certificate of registration has been granted to him; (b) contravenes any of the provisions of the securities laws or directions, instructions or circulars issued thereunder. SEBI may, without prejudice to any action under the securities laws or directions, instructions or circulars issued thereunder, by order take such action in the manner provided under these regulations.

APPOINTMENT OF DESIGNATED AUTHORITY	Regulation 24 provides that where it appears to the designated member, that any person who has been granted certificate of registration under the Act, regulations made thereunder has committed any default of the nature specified in regulation 23, he may appoint an officer not below the rank of a Division Chief, as a designated authority. However, the designated member may, at his discretion, appoint a bench of three officers, each of whom shall not be below the rank of a Division Chief and such bench shall be presided by the senior most amongst them and all the decisions or recommendations of such bench shall be by way of majority. No officer who has conducted investigation or inspection in respect of the alleged violation shall be appointed as a designated authority.
ACTION IN CASE OF DEFAULT	Regulation 27 provides for the following in case of default – (i) suspension of certificate of registration for a specified period; (ii) cancellation of certificate of registration; (iii) prohibiting the noticee to take up any new assignment or contract or launch a new scheme for the period specified in the order; (iv) debarring a principal officer of the noticee from being employed or associated with any registered intermediary or other registered person for the period specified in the order; (v) debarring a branch or an office of the noticee from carrying out activities for the specified period; (vi) warning the noticee.
SURRENDER OF ANY CERTIFICATE OF REGISTRATION	Regulation 31 provides that any person, who has been granted a certificate of registration under the Act or the regulations made thereunder, desirous of giving up its activity and surrender the certificate, may make a request for such surrender to SEBI and while disposing such request, SEBI shall not be bound by the procedure specified in the foregoing provisions of this Chapter. (a) the arrangements made by the person for maintenance and preservation of records and other documents required to be maintained under the relevant regulations; (b) redressal of investor grievances; (c) transfer of records, funds or securities of its clients; (d) the arrangements made by it for ensuring continuity of service to the clients; (e) defaults or pending action, if any. While accepting surrender, SEBI may impose such conditions as it deems fit.
EFFECT OF DEBARMENT, SUSPENSION, CANCELLATION OR SURRENDER	Regulation 32 provides that on and from the date of debarment or suspension of the certificate, the concerned person shall – (a) not undertake any new assignment or contract or launch any new scheme and during the period of such debarment or suspension; (b) allow its clients or investors to withdraw or transfer their securities or funds without any additional cost to such client or investor; (c) make provisions as regards liability incurred or assumed by it; (d) take such other action including the action relating to any records or documents and securities or money of the investors. On and from the date of surrender or cancellation of the certificate, the concerned person shall— (a) return the certificate of registration so cancelled to SEBI and shall not represent itself to be a holder of certificate for carrying out the activity for which such certificate had been granted; (b) cease to carry on any activity in respect of which the certificate had been granted; (c) transfer its activities to another person holding a valid certificate of registration to carry on such activity and allow its clients or investors to withdraw or transfer their securities or funds held in its custody or to withdraw any assignment given to it,

	without any additional cost to such client or investor; (d) make provisions as regards liability incurred or assumed by it; (e) take such other action including the action relating to any records or documents and securities or money of the investors.
APPEAL TO SECURITIES APPELLATE TRIBUNAL	Regulation 33 provides that the person aggrieved by an order under these regulations may prefer an appeal to the Securities Appellate Tribunal against such order in accordance with the provisions of section 15T of the Act and Rules prescribed in this regards.

UNIT 22: INSIDER TRADING
SEBI (Prohibition of Insider Trading) Regulations, 2015

IMPORTANT DEFINITIONS	Insider trading means: (June 2015, June 2008) (a) An act of subscribing, buying, selling, dealing or agreeing to subscribe, buy, sell or deal in any securities, by any director or key managerial personnel or any other officer of a company either as principal or agent if such director or key managerial personnel or any other officer of the company is reasonably expected to have access to any non – public price sensitive information in respect of securities of company; or (b) An act of counseling about procuring or communicating directly or indirectly any non – public price – sensitive information to any person; Insider means any person who is: (a) A connected person; or (b) In possession of or having access to unpublished price sensitive information; Connected Person “Connected person” means, - (i) Any person who is or has during the 6 months prior to the concerned act been associated with a company, directly or indirectly, in any capacity including by reason of frequent communication with its officers or by being in any contractual, fiduciary or employment relationship or by being a director, officer or an employee of the company or holds any position including a professional or business relationship between himself and the company whether temporary or permanent, that allows such person, directly or indirectly, access to unpublished price sensitive information or is reasonably expected to allow such access. (Dec 2010) <u>Person is Deemed to be a Connected Person: (Dec 2016)</u> (ii) Without prejudice to the generally of the foregoing, the persons falling within the following categories shall be deemed to be connected person unless the contrary is established, - (a) An immediate relative of connected persons specified in clause (i); or (b) A holding company or associate company or subsidiary company; or (c) An intermediary as specified in section 12 of the Act or an employee or director thereof; or (d) An investment company, trustee company, asset management company or an employee of director thereof; or (e) An official of a stock exchange or of clearing house or corporation; or (f) A member of board of trustees of a mutual fund or a member of the board of directors of the asset management company of a mutual fund or is an employee thereof; or (g) A member of the board of directors or an employee, of a public financial institution as defined in section 2(72) of the Companies Act, 2013; or (h) An official or an employee of a self – regulatory organization recognized or authorized by the Board; or (i) A banker of the company; or (j) A concern, firm, trust, Hindu undivided family, company or association of persons wherein a director of a company or his immediate relative or banker of the company, has more than 10% of the holding or interest. <u>UNPUBLISHED PRICE SENSITIVE INFORMATION:</u> Means any information, relating to a company or its securities, directly or indirectly, that is not generally available which upon becoming generally available, is likely to materially affect the price of the securities and shall, ordinarily including but not restricted to, information relating to the following:- (i) Financial results; (ii) Dividends; (iii) Change in capital structure; (iv) Mergers, de – mergers, acquisitions, delisting, disposals and expansion of business and such other transactions; (v) Changes in key managerial personnel; and (vi) Material events in accordance with the listing agreement.
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In short, till the time price sensitive information is not intimated to general public via newspaper, stock exchange, media or websites of a listed Company, such information is known as **unpublished price sensitive information**.

Information	Whether PS or not?	Reason
CEO of a company died in an Air Crash	Yes	Change in KMP
RBI has increased its statutory liquidity ratio by 25 basis points	No	This information is available to all people on uniform basis
The company is setting up another plant in Gujarat	Yes	It is expansion of business of company
The company is negotiating with a foreign company to sell its stake in Star Ltd	Yes	It is disposal or disinvestment of the company's investment.
CEO of a company met with an accident and had been hospitalized	No	No change in KMP
Intended declaration of rights issue in near future	Yes	Issue of securities is a PSI
Chairman of company has submitted his resignation to the board under protest for selling a particular brand to another company	Yes	There is a policy issue in the company

CHINESE WALL POLICY IN AREAS OF PRICE SENSITIVE INFORMATION: (JUNE 2011)

- ❖ Price sensitive information is required to be disseminated to the stock exchange on continuous basis. To prevent the misuse of confidential information the organisation adopt the Chinese Wall Policy which separates those area of organisation which routinely have access to confidential information, considered inside areas from those areas which deal with:
 - (a) Sales
 - (b) Marketing
 - (c) Investment Advice
 - (d) Other Department providing support services, which are considered as public areas.
- ❖ The Code of Conduct to prevent insider trading regulation must contain norms for appropriate Chinese wall procedures, and processes for permitting any designated person to cross the wall.

“proposed to be listed” shall include securities of an unlisted company:

- (i) if such unlisted company has filed offer documents or other documents, as the case may be, with the Board, stock exchange(s) or registrar of companies in connection with the listing; or
 - (ii) if such unlisted company is getting listed pursuant to any merger or amalgamation and has filed a copy of such scheme of merger or amalgamation under the Companies Act, 2013;
- (Inserted w.e.f 01.04.2019)**

PROHIBITION ON COMMUNICATION

(1) **No Communication of UPSI except official communication:** Reg. 3(1): No insider shall communicate, provide, or allow access to any unpublished price sensitive information, relating to a company or securities listed or proposed to be listed, to any person including other insiders except where such communication is in furtherance of legitimate purposes,

MATTERS RELATING TO INSIDER TRADING (REGULATION 3)	performance of duties or discharge of legal obligations. (2) <u>No Communication of UPSI to persons related the company:</u> Reg. 3(2): No person shall procure from or cause the communication by any insider of unpublished price sensitive information, relating to a company or securities listed or proposed to be listed, except in furtherance of legitimate purposes, performance of duties or discharge of legal obligations. (2A) The board of directors of a listed company shall make a policy for determination of “legitimate purposes” as a part of “Codes of Fair Disclosure and Conduct” formulated under regulation 8. Explanation –For the purpose of illustration, the term “legitimate purpose” shall include sharing of unpublished price sensitive information in the ordinary course of business by an insider with partners, collaborators, lenders, customers, suppliers, merchant bankers, legal advisors, auditors, insolvency professionals or other advisors or consultants, provided that such sharing has not been carried out to evade or circumvent the prohibitions of these regulations. (2B) Any person in receipt of unpublished price sensitive information pursuant to a “legitimate purpose” shall be considered an “insider” for purposes of these regulations and due notice shall be given to such persons to maintain confidentiality of such unpublished price sensitive information in compliance with these regulations. (Inserted w.e.f 01.04.2019) (3) <u>Exception to the above provisions:</u> Reg. 3(3): An UPSI may be communicated, provided, allowed access to or procured, in connection with a transaction that would:- <u>For Open Offer:</u> Entail an obligation to make an open offer under the takeover regulations where the board of directors of the Listed company is of informed opinion that <u>Sharing of such information</u> is in the best interests of the company. <u>Other than open offer:</u> Not attract the obligation to make an open offer under the takeover regulations but where the board of directors of the Listed company is of informed opinion that sharing of such information is in the best interests of the company and the information that constitute unpublished price sensitive information is disseminated to be made generally available at least two trading days prior to the proposed transaction being effected in such form as the board of directors may determine to be adequate and fair to cover all relevant & material facts. (4) <u>Execution of a confidentiality and non – disclosure agreement:</u> The board of directors shall require the parties to execute agreements to contract confidentiality and non – disclosure obligations, on the part of such parties and such parties shall keep information so received confidential, except for the purpose of sub – regulation (3), and shall not otherwise trade in securities of the company when in possession of unpublished price sensitive information. (5) The board of directors shall ensure that a structured digital database is maintained containing the names of such persons or entities as the case may be with whom information is shared under this regulation along with the Permanent Account Number or any other identifier authorized by law where Permanent Account Number is not available. Such databases shall be maintained with adequate internal controls and checks such as time stamping and audit trails to ensure non-tampering of the database. (Inserted w.e.f 01.04.2019)
TRADING WHEN IN POSSESSION	(1) No insider shall trade in securities that are listed or proposed to be listed on a stock exchange when in possession of unpublished price sensitive information.

OF UPSI (REGULATION 4)	Explanation –When a person who has traded in securities has been in possession of unpublished price sensitive information, his trades would be presumed to have been motivated by the knowledge and awareness of such information in his possession. (Inserted w.e.f 01.04.2019) Provided that the insider may prove his innocence by demonstrating the circumstances including the following: – (i) the transaction is an off-market inter-se transfer between insiders who were in possession of the same unpublished price sensitive information without being in breach of regulation 3 and both parties had made a conscious and informed trade decision. Provided that such unpublished price sensitive information was not obtained under sub-regulation (3) of regulation 3 of these regulations. Provided further that such off-market trades shall be reported by the insiders to the company within two working days. Every company shall notify the particulars of such trades to the stock exchange on which the securities are listed within two trading days from receipt of the disclosure or from becoming aware of such information. (Inserted w.e.f 01.04.2019) (ii) the transaction was carried out through the block deal window mechanism between persons who were in possession of the unpublished price sensitive information without being in breach of regulation 3 and both parties had made a conscious and informed trade decision; Provided that such unpublished price sensitive information was not obtained by either person under sub-regulation (3) of regulation 3 of these regulations. (iii) the transaction in question was carried out pursuant to a statutory or regulatory obligation to carry out a bona fide transaction. (iv) the transaction in question was undertaken pursuant to the exercise of stock options in respect of which the exercise price was pre-determined in compliance with applicable regulations. (v)in the case of non-individual insiders: – (a) the individuals who were in possession of such unpublished price sensitive information were different from the individuals taking trading decisions and such decision-making individuals were not in possession of such unpublished price sensitive information when they took the decision to trade; and (b)appropriate and adequate arrangements were in place to ensure that these regulations are not violated and no unpublished price sensitive information was communicated by the individuals possessing the information to the individuals taking trading decisions and there is no evidence of such arrangements having been breached; (vi)the trades were pursuant to a trading plan set up in accordance with regulation 5. (2) In the case of connected persons the onus of establishing, that they were not in possession of unpublished price sensitive information, shall be on such connected persons and in other cases, the onus would be on the Board. (3)The Board may specify such standards and requirements, from time to time, as it may deem necessary for the purpose of these regulations.
TRADING PLANS:	(a) Approval of Trading Plan: Reg. 5(1): An insider shall be entitled to formulate a trading plan and present it to the compliance officer for approval and public disclosure pursuant to

(REGULATION 5) (December 2017)	which trades may be carried out on his behalf in accordance with such plan. (b) Reg. 5(2): Such trading plan shall: ○ Not entail commencement of trading on behalf of the insider earlier than six months from the public disclosure of the plan; ○ Not entail trading for the period between the twentieth trading day prior to the last day of any financial period for which results are required to be announced by the issuer of the securities and the second trading day after the disclosure of such financial results; ○ Entail trading for a period of not less than 12 months; ○ Not entail overlap of any period for which another trading plan is already in existence; ○ Set out either the value of trades to be effected or the number of securities to be traded along with the nature of the trade and the intervals at, or dates on which such trades shall be effected; and ○ Not entail trading in securities for market abuse. (c) Review of Trading Plan: Reg. 5(3): The compliance officer shall review the trading plan to assess whether the plan would have any potential for violation of these regulations and shall be entitled to seek such express undertakings as may be necessary to enable such assessment and to approve and monitor the implementation of the plan. Provided that pre-clearance of trades shall not be required for a trade executed as per an approved trading plan. Provided further that trading window norms and restrictions on contra trade shall not be applicable for trades carried out in accordance with an approved trading plan. (d) Irrevocable approved trading plan: Reg. 5(4): The trading plan once approved shall be irrevocable and the insider shall mandatorily have to implement the plan, without being entitled to either deviate from it or to execute any trade in the securities outside the scope of the trading plan. (e) Notice to Stock Exchange: Reg. 5(5): Upon approval of the trading plan, the compliance officer shall notify the plan to the stock exchanges on which the securities are listed.
DISCLOSURE OF TRADING BY INSIDERS (Regulation 6: General Disclosure)	(a) Specific form for disclosure: Reg. 6(1): Every public disclosure shall be made in a specified form. (b) Disclosure by any person: Reg. 6(2): The disclosures to be made by any person shall include those relating to trading by such person's immediate relatives, and by any other person for whom such person takes trading decisions. (c) Disclosure includes derivatives: Reg. 6(3): The disclosures of trading in securities shall also include trading in derivatives of securities and the traded value of the derivatives shall be taken into account. (d) Maintenance of Record: Reg. 6(4): The disclosures made shall be maintained by the company, for a minimum period of 5 years, in the specified form.
DISCLOSURE OF TRADING BY INSIDER (Regulation 7: Specific Disclosure)	1. Initial Disclosures: (a) Every promoter or Member of Promoter Group, KMP and director of every company whose securities are listed on any recognized stock exchange shall disclose his holding of securities of the company as on the date of these regulations taking effect, to the company within 30 days of these regulations taking effect. (b) Every person on appointment as a KMP or a director of the company or upon becoming a promoter or Member of Promoter Group shall disclose his holding of securities of the company as on the date of appointment or becoming a promoter, to the company within 7 days of such appointment or becoming a promoter.

	<u>2. Continual Disclosures:</u> (a) Every promoter, employee and director of every company shall disclose to the company the number of such securities acquired or disposed of within 2 trading days of such transaction if the value of the securities traded, whether in one transaction or a series of transactions over any calendar quarter, aggregates to a traded value in excess of 10 lakh rupees or such other value as may be specified. (b) Every company shall notify the particulars of such trading to the stock exchange on which the securities are listed within 2 trading days of receipt of the disclosure or from becoming aware of such information. <u>3. Disclosures by other connected persons:</u> Any company whose securities are listed on a stock exchange may, at its discretion require any other connected person or class of connected persons to make disclosures of holdings and trading in securities of the company in such form and at such frequency as may be determined by the company in order to monitor compliance with these regulations.
CODE OF FAIR DISCLOSURE AND CONDUCT	<u>Code of Fair Disclosure:</u> Regulation 8(1): The board of directors of every company, whose securities are listed on a stock exchange, shall formulate and publish on its official website, a code of practices and procedures for fair disclosure of unpublished price sensitive information that it would follow in order to adhere to each of the principles set out in Schedule A to these Regulations, without diluting the provisions of these regulations in any manner. (2) Every such 'code of practices and procedures for fair disclosure of unpublished price sensitive information and every amendment thereto shall be promptly intimated to the stock exchanges where the securities are listed. <u>Code of Conduct:</u> Regulation 9(1): The board of directors of every listed company and the board of directors or heads of the organisation of every intermediary shall ensure that the Chief Executive Officer or Managing Director shall formulate a code of conduct with their approval to regulate, monitor and report trading by its designated persons and immediate relatives of designated persons towards achieving compliance with these regulations, adopting the minimum standards set out in Schedule B in case of listed company & Schedule C in case of intermediary to these Regulations, without diluting the provisions of these regulations in any manner. Explanation –For the avoidance of doubt it is clarified that intermediaries, which are listed, would be required to formulate a code of conduct to regulate, monitor and report trading by their designated persons, by adopting the minimum standards set out in Schedule B with respect to trading in their own securities and in Schedule C with respect to trading in other securities (2) The Board of Directors or heads of organisation of every other person who is required to handle unpublished price sensitive information in the course of business operations shall formulate a code of conduct to regulate, monitor and report trading by designated persons & immediate relative of designated persons towards achieving compliance with these regulations, adopting the minimum standards set out in Schedule C to these Regulations, without diluting the provisions of these regulations in any manner. Explanation -Professional firms such as auditors, accountancy firms, law firms, analysts, insolvency professional entities, consultants, banks etc., assisting or advising listed companies shall be collectively referred to as fiduciaries for the purpose of these regulations. (3) Every listed company, market intermediary and other persons formulating a code of conduct shall identify and designate a compliance officer to administer the code of conduct and other requirements under these regulations.

	(4) For the purpose of sub regulation (1) and (2), the board of directors or such other analogous authority shall in consultation with the compliance officer specify the designated persons to be covered by the code of conduct on the basis of their role and function in the organisation and the access that such role and function would provide to unpublished price sensitive information in addition to seniority and professional designation and shall include:- (i) Employees of such listed company, intermediary or fiduciary designated on the basis of their functional role or access to unpublished price sensitive information in the organization by their board of directors or analogous body; (ii) Employees of material subsidiaries of such listed companies designated on the basis of their functional role or access to unpublished price sensitive information in the organization by their board of directors; (iii) All promoters of listed companies and promoters who are individuals or investment companies for intermediaries or fiduciaries. (iv) Chief Executive Officer and employees upto two levels below Chief Executive Officer of such listed company, intermediary, fiduciary and its material subsidiaries irrespective of their functional role in the company or ability to have access to unpublished price sensitive information; (v) Any support staff of listed company, intermediary or fiduciary such as IT staff or secretarial staff who have access to unpublished price sensitive information. (Inserted w.e.f 01.04.2019)
INSTITUTIONAL MECHANISM FOR PREVENTION OF INSIDER TRADING (REGULATION 9A) (Inserted w.e.f 01.04.2019)	(1) The Chief Executive Officer, Managing Director or such other analogous person of a listed company, intermediary or fiduciary shall put in place adequate and effective system of internal controls to ensure compliance with the requirements given in these regulations to prevent insider trading. (2) The internal controls shall include the following: (a).all employees who have access to unpublished price sensitive information are identified as designated employee; (b).all the unpublished price sensitive information shall be identified and its confidentiality shall be maintained as per the requirements of these regulations; (c).adequate restrictions shall be placed on communication or procurement of unpublished price sensitive information as required by these regulations; (d).lists of all employees and other persons with whom unpublished price sensitive information is shared shall be maintained and confidentiality agreements shall be signed or notice shall be served to all such employees and persons; (e).all other relevant requirements specified under these regulations shall be complied with; (f).periodic process review to evaluate effectiveness of such internal controls. (3) The board of directors of every listed company and the board of directors or head(s) of the organisation of intermediaries and fiduciaries shall ensure that the Chief Executive Officer or the Managing Director or such other analogous person ensures compliance with regulation 9 and sub-regulations (1) and (2) of this regulation. (4) The Audit Committee of a listed company or other analogous body for intermediary or fiduciary shall review compliance with the provisions of these regulations at least once in a financial year and shall verify that the systems for internal control are adequate and are operating effectively. (5) Every listed company shall formulate written policies and procedures for inquiry

	in case of leak of unpublished price sensitive information or suspected leak of unpublished price sensitive information, which shall be approved by board of directors of the company and accordingly initiate appropriate inquiries on becoming aware of leak of unpublished price sensitive information or suspected leak of unpublished price sensitive information and inform the Board promptly of such leaks, inquiries and results of such inquiries. (6) The listed company shall have a whistle-blower policy and make employees aware of such policy to enable employees to report instances of leak of unpublished price sensitive information. (7) If an inquiry has been initiated by a listed company in case of leak of unpublished price sensitive information or suspected leak of unpublished price sensitive information, the relevant intermediaries and fiduciaries shall co-operate with the listed company in connection with such inquiry conducted by listed company.
PENALTIES FOR INSIDER TRADING UNDER SECTION 15G OF SEBI ACT	The penalty for insider trading is: ❖ Minimum 10 Lakhs and which may extent to <u>Rs.25 crores or</u> ❖ <u>3 times</u> of the amount of profits made out of insider trading, whichever is higher.

UNIT 23: TAKEOVER CODE

SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 2011

INTRODUCTION	SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 2011 aims at protecting interest of the investors in securities of a listed company providing amongst others, an opportunity for the public shareholders to exit where there is a substantial acquisition of shares or voting rights or control over a listed company, consolidation of holdings by existing shareholders and related disclosures and penalties for non – compliance etc. SAST requires an acquirer to make an offer to shareholders of the target company on acquiring shares exceeding stipulated thresholds. It also contains provisions relating to open offer size and price; time bound process for making an open offer, exemption from making an open offer etc. Provided that these regulations shall not apply to direct and indirect acquisition of shares or voting rights in, or control over a company listed without making a public issue, on the Innovators Growth platform of a recognised stock exchange.
SEBI (SUBSTANTIAL ACQUISITION OF SHARES AND TAKEOVERS) REGULATIONS, 2011	
IMPORTANT DEFINITIONS	❖ ACQUIRER means any person who, directly or indirectly, acquires or agrees to acquire whether by himself, or through, or with persons acting in concert with him, shares or voting rights in, or control over a target company. (Dec 2016, Dec 2007) ❖ ACQUISITION means, directly or indirectly, acquiring or agreeing to acquire shares or voting rights in, or control over, a target company. ❖ CONTROL includes the right to appoint majority of the directors or to control the management or policy decisions exercisable by a person or persons acting individually or in concert, directly or indirectly, including by virtue of their shareholding or management rights or shareholders agreements or voting agreements or in any other manner. PROVIDED that a director or officer of a target company shall not be considered to be in control over such target company, merely by virtue of holding such position. (Dec 2007) • ENTERPRISE VALUE means the value calculated as market capitalization of a company plus debt, minority interest and preferred shares, minus total cash and cash equivalents. Enterprise Value = Market capitalization + Debt + Minority Interest and Preferred Shares – Total Cash and Cash Equivalents • PERSONS ACTING IN CONCERT means: (June 2008) (1) Persons who, with a common objective or purpose of acquisition of shares or voting rights in, or exercising control over a target company, pursuant to an agreement or understanding, formal or informal, directly or indirectly co – operate for acquisition of shares or voting rights in, or exercise of control over the target company. (2) Without prejudice to the generally of the foregoing, the persons falling within the following categories shall be deemed to be persons acting in concert with other persons within the same category, unless the contrary is established:- (i) A company, its holding company, subsidiary company and any company under the same management or control; (ii) A company, its directors, and any person entrusted with the management of company; (iii) Directors of companies referred to in terms (i) and (ii) of this sub – clause and

	associates of such directors; (iv) Promoters and members of the promoter group; (v) Immediate relatives; (vi) Mutual fund, sponsor, trustees, trustee company, and asset management company; (vii) A collective investment scheme and its collective investment management company, trustees and trustee company; (viii) A venture capital fund and its sponsor, trustees, trustee company and asset management company; (viia) an Alternate Investment fund and its Sponsor, Trustee, Trustee Company & Asset Management Company; (ix) A foreign institutional investor and its sub-accounts; (Deleted) (x) A merchant banker and its client, who is an acquirer; (xi) A portfolio manager and its client, who is an acquirer; (xii) Banks, financial advisors and stock brokers of the acquirer, or of any company which is a holding company or subsidiary of the acquirer, and where the acquirer is an individual, of the immediate relative of such individual. PROVIDED that this sub – clause shall not apply to a bank whose sole role is that of providing normal commercial banking services or activities in relation to an open offer. (xiii) An investment company or fund and any person who has an interest in such investment company or fund as a shareholder or unit holder having not less than 10% of the paid – up capital of the investment company or unit capital of the fund, and any other investment company or fund in which such person or his associate holds not less than 10% of the paid – up capital of that investment company or unit capital of that fund: PROVIDED that nothing contained in this sub – clause shall apply to holding of units of mutual funds registered with SEB. • TARGET COMPANY means a company and includes a body corporate or corporation established under a Central legislation, State legislation or Provincial legislation for the time being in force, whose shares are listed on a stock exchange. • WILFUL DEFAULTER: wilful defaulter means any person who is categorized as a wilful defaulter by any bank or financial institution or consortium thereof, in accordance with the guidelines on wilful defaulters issued by the Reserve Bank of India and includes any person whose director, promoter or partner is categorized as such; • “FUGITIVE ECONOMIC OFFENDER” shall mean an individual who is declared a fugitive economic offender under section 12 of the Fugitive Economic Offenders Act, 2018;
TRIGGER POINT (JUNE 2007)	25% shares or voting rights: An acquirer, along with Persons acting in concert (PAC), if any, who intends to acquire shares which along with his existing shareholding would entitle him to exercise 25% or more voting rights, can acquire such additional shares only after making a Public Announcement (PA) to acquirer minimum 26% shares of the Target Company from the shareholders through an Open Offer. (a) The trigger point of an open offer, if a person acquires 25% or more shares or voting rights of a listed target company. Thereafter, if the acquirer or the PAC acquires more than 25% of the shares, then the acquirer(s) needs to purchase a minimum of 26% of additional stakes in the target company (also known as triggering point for an open offer).

	(b) No triggering point, if the acquirer or the PAC acquires 25% or less shares or voting rights. <u>CREEPING ACQUISITION LIMIT: (JUNE 2017)</u> These provisions apply to those existing shareholders who hold more than 25% of the shares or voting rights. For such acquires to increase their stake, they are allowed to acquire shares or voting rights to the extent of 5% in any financial year up to the maximum permissible non – public shareholding limit (i. e. 75%). This setting is termed as ‘Creeping Acquisition’. Acquisition of shares or voting rights in excess of the said limit (i. e. 5%) would trigger an open offer. In other words, if an acquirer who holds 25% or more but less than maximum permissible non – public shareholding (i. e. 75%) of the Target Company, can acquire such additional shares as would entitle him to exercise more than 5% of the voting rights in any financial year ending March 31 only after making a Public Announcement to acquire minimum 26% shares of Target Company from the shareholders through an Open Offer.
MANDATORY OPEN OFFER (JUNE EXAMS) 2019	SEBI Takeover Regulations, 2011 provide certain trigger events wherein the Acquirer is required to give Open Offer to the shareholders of the Target Company to provide them exit opportunity. <u>MANDATORY OPEN OFFER (Regulation 3 of the SEBI Takeover Regulations, 2011):</u> The regulations provide that whenever an acquirer acquires the shares in excess of the threshold limit (i. e. 25%), then the acquirer is required to make a public announcement of offer to the shareholders of the Target Company. The Acquirer to give an open offer to the shareholders of Target Company on the acquisition of shares or voting rights entitling the Acquirer along with the persons acting in concert with him to exercise 25% or more voting rights in the Target Company. Further, any acquirer who holds shares between 25% - 75%, together with PACs can acquire further 5% shares as creeping acquisition without giving an Open Offer to the shareholders of the Target Company up to a maximum of 75%. The quantum of acquisition of additional voting rights shall be calculated after considering the following:- ➤ <u>No Netting off allowed:</u> For the purpose of determining the quantum of acquisition of additional voting right, the gross acquisitions without considering the disposal of shares or dilution of voting rights owing to fresh issue of shares by the target company shall be taken into account. ➤ <u>Incremental voting rights in case of fresh issue:</u> In the case of acquisition of shares by way of issue of new shares by the target company, the difference between the pre – allotment and the post – allotment percentage voting rights shall be regarded as the quantum of additional acquisition. ➤ <u>Public Announcement (Regulation 4 of the SEBI Takeover Regulations, 2011):</u> If any acquirer including PAC acquires control over the Target Company irrespective of the fact whether there has been any acquisition of shares or not, then he has to give public announcement to acquire shares from shareholders of the Target Company.
VOLUNTARY OPEN OFFER (Regulation 6 of the	Voluntary Open Offer means the Open Offer given by the Acquirer voluntarily without triggering the mandatory Open Offer obligations as envisaged under the regulations. Voluntary Offers are an important means for substantial shareholders to consolidate

SEBI Takeover Regulations, 2011)	their stake and therefore recognized the need to introduce a specific framework for such Open Offers. Limits and Conditions for Voluntary Open Offer: Threshold limits and conditions for making the Voluntary Open Offer which are detailed below:- ➤ <u>Eligibility:</u> Prior holding of at least 25% Shares: To be eligible for making a Voluntary Open Offer, the regulations mandate the prior holding of at least 25% stake in the Target Company by the Acquirer along with the PACs. ➤ <u>Acquisition of shares prior to the Voluntary Open Offer:</u> The Acquirer shall become ineligible to make a Voluntary Open Offer if during the preceding 52 weeks, the Acquirer or PACs with him has acquired shares of the Target Company without attracting the obligation to make a Public Announcement of an Open Offer. ➤ <u>Shareholding of the Acquirer and PACs post completion of Open Offer:</u> Post completion of the Open Offer, the shareholding of the Acquirer along with PACs shall not exceed the maximum permissible non – public shareholding. ➤ <u>Prohibition on the acquisition of shares during the Offer Period:</u> SEBI Takeover Regulations, 2011 prohibit the acquirer who has made a Voluntary Open Offer from further acquiring the shares during the Offer Period otherwise than under the Open Offer. ➤ <u>Restriction of the acquisition of shares post completion of Voluntary Open Offer:</u> An acquirer and PACs who have made a Voluntary Open Offer shall not be entitled to further acquire shares for a period of 6 months after completion of the Open Offer except pursuant: (i) To another Voluntary Open Offer. (ii) To Completing Open Offer to the Open Offer made by any other person for acquiring shares of the Target Company. ➤ <u>Offer Size:</u> The Voluntary Open Offer shall be made for the acquisition of at least 10% of the voting rights in the Target Company and shall not exceed such number of shares as would result in the post-acquisition holding of the acquirer and PACs with him exceeding the maximum permissible non – public shareholding (i. e. 75%) applicable to such Target Company.
DELISTING OFFER (REGULATION 5A)	(1) Notwithstanding anything contained in these regulations, in the event the acquirer makes a public announcement of an open offer for acquiring shares of a target company in terms of regulations 3, 4 or 5, he may delist the company in accordance with provisions of the Securities and Exchange Board of India (Delisting of Equity Shares) Regulations, 2009: Provided that the acquirer shall have declared upfront his intention to so delist at the time of making the detailed public statement and a subsequent declaration of delisting for the purpose of the offer proposed to be made under sub regulation (1) will not suffice. (Inserted w.e.f 11.09.2018) (2) Where an offer made under sub-regulation (1) is not successful,- (i) on account of non-receipt of prior approval of shareholders in terms of clause (b) of sub-regulation (1) of regulation 8 of Securities and Exchange Board of India (Delisting of Equity Shares) Regulations, 2009; or (ii) in terms of regulation 17 of Securities and Exchange Board of India

	(Delisting of Equity Shares) Regulations, 2009; or (iii) on account of the acquirer rejecting the discovered price determined by the book building process in terms of sub-regulation (1) of regulation 16 of Securities and Exchange Board of India (Delisting of Equity Shares) Regulations, 2009, the acquirer shall make an announcement within two working days in respect of such failure in all the newspapers in which the detailed public statement was made and shall comply with all applicable provisions of these regulations. (3) In the event of failure of the delisting offer made under sub-regulation (1), the open offer obligations shall be fulfilled by the acquirer in the following manner: (i) the acquirer, through the manager to the open offer, shall within five working days from the date of the announcement under sub-regulation (2), file with the Board, a draft of the letter of offer as specified in sub-regulation (1) of regulation 16; and (ii) shall comply with all other applicable provisions of these regulations. Provided that the offer price shall stand enhanced by an amount equal to a sum determined at the rate of ten per cent per annum for the period between the scheduled date of payment of consideration to the shareholders and the actual date of payment of consideration to the shareholders. Explanation: For the purpose of this sub-regulation, scheduled date shall be the date on which the payment of consideration ought to have been made to the shareholders in terms of the timelines in these regulations. (Substituted w.e.f. 11.09.2018) (4) Where a competing offer is made in terms of sub-regulation (1) of regulation 20,- (a) the acquirer shall not be entitled to delist the company; (b) the acquirer shall not be liable to pay interest to the shareholders on account of delay due to competing offer; (c) the acquirer shall comply with all the applicable provisions of these regulations and make an announcement in this regard, within two working days from the date of public announcement made in terms of sub-regulation (1) of regulation 20, in all the newspapers in which the detailed public statement was made. (5) Shareholders who have tendered shares in acceptance of the offer made under sub-regulation (1), shall be entitled to withdraw such shares tendered, within 10 working days from the date of the announcement under sub-regulation(2) (6) Shareholders who have not tendered their shares in acceptance of the offer made under sub-regulation (1) shall be entitled to tender their shares in acceptance of the offer made under these regulations
WITHDRAWAL OF OPEN OFFER (REGULATION 23)	1) An open offer for acquiring shares once made shall not be withdrawn except under any of the following circumstances,— (a) statutory approvals required for the open offer or for effecting the acquisitions attracting the obligation to make an open offer under these regulations having been finally refused, subject to such requirements for approval having been specifically disclosed in the detailed public statement and the letter of offer;

	(b)the acquirer, being a natural person, has died; (c)any condition stipulated in the agreement for acquisition attracting the obligation to make the open offer is not met for reasons outside the reasonable control of the acquirer, and such agreement is rescinded, subject to such conditions having been specifically disclosed in the detailed public statement and the letter of offer; or (d)such circumstances as in the opinion of the Board, merit withdrawal. Explanation.—For the purposes of clause (d) of sub-regulation (1), the Board shall pass a reasoned order permitting withdrawal, and such order shall be hosted by the Board on its official website. Provided that an acquirer shall not withdraw an open offer pursuant to a public announcement made under clause (g) of sub-regulation (2) of regulation 13, even if the proposed acquisition through the preferential issue is not successful.
PUBLIC ANNOUNCEMENT	Irrespective of acquisition or holding of shares or voting rights in a target company, no acquirer shall acquire, directly or indirectly, control over such target company unless the acquirer makes a public announcement of an open offer for acquiring shares of such target company in accordance with these regulations. (Regulation 4) Regulation 14 of the SEBI Takeover Regulations, 2011 prescribe the manner of public announcements in connection with mandatory and voluntary open offer: • Short Public Announcement: Short public announcement shall be made on the same day or as prescribed as on the date of transaction which triggered the Open Offer to all the stock exchanges where the shares of the Target Company are listed for the purpose of dissemination of the information to the public. Further, a copy of the public announcement shall be sent to SEBI and to the Target Company at its registered office within 1 working day of the date of short public announcement. • Detailed Public Announcement: After the short Public Announcement, a detailed Public Announcement shall be made by the Acquirer within 5 working days from the date of short Public Announcement. Such public announcement is required to be published in all editions of any one English national daily with wide circulation, any one Hindi national daily with wide circulation, and any one regional language daily with wide circulation at the place where the registered office of the Target Company is situated and one regional language daily at the place of the stock exchange where the maximum volume of trading in the shares of the Target Company are recorded during the sixty trading days preceding the date of the public announcement. Simultaneously, a copy of the publication shall be sent to SEBI, Stock Exchanges where the shares of the Target Company are listed and to the Target Company at its registered office. • Offer Size/Minimum Price: (Dec 2011) Offer size is the price at which the acquirer announces to acquire shares from the public shareholders under the open offer. The offer price shall not be less than the price as calculated under regulation 8 of the SAST Regulations, 2011 for frequently or infrequently traded shares. If the target company's shares are frequently traded then the open offer price for acquisition of shares under the minimum open offer shall be highest of the following:-

	➤ Highest negotiated price per share under the share purchase agreement (“SPA”); ➤ Volume weighted average price of shares acquired by the acquirer during 52 weeks preceding the public announcement (“PA”); ➤ Highest price paid for any acquisition by the acquirer during 26 weeks immediately preceding the PA; ➤ Volume weighted average market price for sixty trading days preceding the PA; If the target company’s shares are infrequently traded then the open offer price for acquisition of shares under the minimum open offer shall be highest of the following:- ➤ Highest negotiated price per share under the share purchase agreement triggering the offer; ➤ Volume weighted average price of shares acquired by the acquirer during 52 weeks preceding the public announcement (“PA”); ➤ Highest price paid for any acquisition by the acquirer during 26 weeks immediately preceding the PA; ➤ The price determined by the acquirer and the manager to the open offer after taking into account valuation parameters including book value, comparable trading multiples, and such other parameters that are customary for valuation of shares of such companies. If may be noted that the Board may at the expense of the acquirer, require valuation of shares by an independent merchant banker other than the manager to the offer or any independent chartered accountant in practice having a minimum experience of 10 years. The shares of the target company will be deemed to be frequently traded if the traded turnover on any stock exchange during the 12 calendar months preceding the calendar month, in which the PA is made, is at least 10% of the total number of shares of the target company. If the said turnover is less than 10%, it will be deemed to be infrequently traded.
WILFUL DEFAULTER (REGULATION 6A)	Notwithstanding anything contained in these regulations, no person who is a wilful defaulter shall make a public announcement of an open offer for acquiring shares or enter into any transaction that would attract the obligation to make a public announcement of an open offer for acquiring shares under these regulations: Provided that this regulation shall not prohibit the wilful defaulter from making a competing offer in accordance with regulation 20 of these regulations upon any other person making an open offer for acquiring shares of the target company.
FUGITIVE ECONOMIC OFFENDER (REGULATION 6B)	Notwithstanding anything contained in these regulations, no person who is a fugitive economic offender shall make a public announcement of an open offer or make a competing offer for acquiring shares or enter into any transaction, either directly or indirectly, for acquiring any shares or voting rights or control of a target company.(Inserted w.e.f 11.09.2018)
SUBMISSION OF DRAFT LETTER OF OFFER	The Acquirer shall submit a draft letter of offer to SEBI within 5 working days from the date of detailed public announcement along with a non – refundable fee as applicable. Simultaneously, a copy of the draft letter of offer shall be sent to the Target Company at its registered office and to all the Stock Exchanges where the shares of the Company are listed.
DISPATCH OF LETTER OF OFFER	The Acquirer shall ensure that the letter of offer is dispatched to the shareholders whose names appear on the register of members of the Target Company as of the identified date, and to the custodian of shares underlying depository receipts, if any, of the Company, within maximum 7 working days from the date of receipt of

	communication of comments from SEBI or where no comments are offered by SEBI, within 7 working days from the expiry of 15 working days from the date of receipt of draft letter of offer by SEBI. However, it is provided that where a shareholder holding less than 5% of the voting rights of the Target Company is resident outside India and local laws or regulations of such jurisdiction may expose the acquirer or the target company to material risk of civil, regulatory or criminal liabilities in the event the letter of offer in its final form were to be sent without material amendments of modifications into such jurisdiction, then the acquirer may refrain from dispatch of the letter of offer into such jurisdiction. Explanation: (i)Letter of offer may also be dispatched through electronic mode in accordance with the provisions of Companies Act, 2013. (ii)On receipt of a request from any shareholder to receive a copy of the letter of offer in physical format, the same shall be provided. (iii)The aforesaid shall be disclosed in the letter of offer;									
OPENING OF THE OFFER	The tendering period shall start within maximum 12 working days from date of receipt of comments from the Board and shall remain open for 10 working days .									
COMPLETION OF REQUIREMENTS	Within 10 working days from the last date of the tendering period, the acquirer shall complete all requirements as prescribed under these regulations and other applicable law relating to the Open Offer including payment of consideration to the shareholders who have accepted the open offer.									
RESTRICTION ON ACQUISITION	If the acquirer or person acting in concert with him acquires shares of the target company during the period of 26 weeks after the tendering period at a price higher than the offer price, then the acquirer shall pay the difference between the highest acquisition price and the offer price, to all the shareholders whose shares were accepted in the open offer, within 60 days from the date of such acquisition. However, such revision shall not be applicable if the acquisition is made through another open offer, Delisting of shares or open market purchase in the ordinary course on the stock exchange.									
PROVISION OF ESCROW (DEC 2015)	Not later than two working days prior to the date of the detailed public statement of the open offer for acquiring shares, the acquirer shall create an escrow account towards security for performance of his obligations under these regulations, and deposit in escrow account such aggregate amount as per the following scale: <table><tr><th></th><th>Consideration payable under Open Offer</th><th>Escrow Amount</th></tr><tr><td>1</td><td>On the first 500 crores rupees</td><td>An amount equal to 25% of the consideration</td></tr><tr><td>2</td><td>On the balance consideration</td><td>An additional amount equal to 10% of the balance consideration</td></tr></table> However, where an open offer is made conditional upon minimum level of acceptance, 100% of the consideration payable in respect of minimum level of acceptance or 50% of the consideration payable under the open offer, whichever is higher, shall be deposited in cash in escrow account. The escrow account may be in the form of: (a) Cash deposited with any scheduled commercial bank; (b) Bank guarantee issued in favor of the manager to the open offer by any scheduled commercial bank; or (c) Deposit of frequently traded and freely transferable equity shares or other freely transferable securities with appropriate margin.		Consideration payable under Open Offer	Escrow Amount	1	On the first 500 crores rupees	An amount equal to 25% of the consideration	2	On the balance consideration	An additional amount equal to 10% of the balance consideration
	Consideration payable under Open Offer	Escrow Amount								
1	On the first 500 crores rupees	An amount equal to 25% of the consideration								
2	On the balance consideration	An additional amount equal to 10% of the balance consideration								

		Explanation: The cash component of the escrow account as referred to in clause (a) above may be maintained in an interest bearing account, subject to the merchant banker ensuring that the funds are available at the time of making payment to the shareholders;
MODE OF PAYMENT	OF	The offer price may be paid: (i) In cash, (ii) by issue of shares, (iii) by exchange of shares or (iv) by transfer of shares, (v) Convertible debentures and (vi) Combination of all above. (2) For the purposes of clause (b), clause (d) and clause (e) of sub-regulation (1), the shares sought to be issued or exchanged or transferred or the shares to be issued upon conversion of other securities, towards payment of the offer price, shall conform to the following requirements, — (a) such class of shares are listed on a stock exchange and frequently traded at the time of the public announcement; (b) such class of shares have been listed for a period of at least two years preceding the date of the public announcement; (c) the issuer of such class of shares has redressed at least ninety five per cent. of the complaints received from investors by the end of the calendar quarter immediately preceding the calendar month in which the public announcement is made; (d) the issuer of such class of shares has been in material compliance with the listing regulations for a period of at least two years immediately preceding the date of the public announcement; <i>Provided that in case where the Board is of the view that a company has not been materially compliant with the provisions of the listing regulations, the offer price shall be paid in cash only;</i> (e) the impact of auditors' qualifications, if any, on the audited accounts of the issuer of such shares for three immediately preceding financial years does not exceed five per cent. of the net profit or loss after tax of such issuer for the respective years; and (f) the Board has not issued any direction against the issuer of such shares not to access the capital market or to issue fresh shares. (3) Where the shareholders have been provided with options to accept payment in cash or by way of securities, or a combination thereof, the pricing for the open offer may be different for each option subject to compliance with minimum offer price requirements under regulation 8: Provided that the detailed public statement and the letter of offer shall contain justification for such differential pricing. (4) In the event the offer price consists of consideration to be paid by issuance of securities, which requires compliance with any applicable law, the acquirer shall ensure that such compliance is completed not later than the commencement of the tendering period: Provided that in case the requisite compliance is not made by such date, the acquirer shall pay the entire consideration in cash. (5) Where listed securities are offered as consideration, the value of such securities shall be higher of: (a) the average of the weekly high and low of the closing prices of such securities quoted on the stock exchange during the six months preceding the relevant

	date; (b) the average of the weekly high and low of the closing prices of such securities quoted on the stock exchange during the two weeks preceding the relevant date; and (c)the volume-weighted average market price for a period of sixty trading days preceding the date of the public announcement, as traded on the stock exchange where the maximum volume of trading in the shares of the company whose securities are being offered as consideration, are recorded during the six-month period prior to relevant date and the ratio of exchange of shares shall be duly certified by an independent merchant banker (other than the manager to the open offer) or an independent chartered accountant having a minimum experience of ten years. Explanation.—For the purposes of this sub-regulation, the “relevant date” shall be the thirtieth day prior to the date on which the meeting of shareholders is held to consider the proposed issue of shares under sub-section (1A) of Section 81 of the Companies Act, 2013;																																								
DISCLOSURE (DEC 2013, JUNE 2015)	The acquirer should do the following disclosures to the target company and concerned stock exchanges which such target company is listed:- <table><tr><th>Regulation</th><th>Triggering Point</th><th>To and by whom</th><th>Time Period</th></tr><tr><td colspan="4">(a) EVENT BASED DISCLOSURES</td></tr><tr><td>29(1)</td><td>Acquisition of 5% or more shares or voting rights</td><td>To the Target Company and Stock Exchange by the Acquirer</td><td>Within 2 working days of: (a) Receipt of intimation of allotment of shares; or (b) Acquisition of shares or voting rights</td></tr><tr><td>29(2)</td><td>Acquirer already holding 5% or more shares or voting rights, On acquisition/disposal of 2% or more shares or voting rights</td><td>To the Target Company and Stock Exchange by the Acquirer/Seller</td><td>Within 2 working days of such acquisition/disposal</td></tr><tr><td colspan="4">(b) CONTINUAL DISCLOSURES (Dec 2008)</td></tr><tr><td>30 (1)</td><td>Any person holding 25% or more shares or voting rights</td><td>Target Company & Stock Exchange by such person</td><td>Within 7 working days from the end of each financial year</td></tr><tr><td>30(2)</td><td>Promoter/Person having control over the Target Company</td><td>Target Company & Stock Exchange by Promoter</td><td>Within 7 working days from the end of each financial year</td></tr><tr><td colspan="4">(c) DISCLOSURE OF PLEDGED/ENCUMBERED SHARES</td></tr><tr><td>31(1)</td><td>On the encumbrance of shares by the promoter or person acting in concert with him</td><td>Target Company & Stock Exchange by the promoter</td><td>Within 7 working days from the date of creation of encumbrance</td></tr><tr><td>31(2)</td><td>On the invocation of or release of such encumbrance by the promoter</td><td>Target Company & Stock Exchange by the promoter</td><td>Within 7 working days from the date of invocation of encumbrance</td></tr></table> For the purposes of this regulation, shares taken by way of encumbrance shall be treated as an acquisition, shares given upon release of encumbrance shall be	Regulation	Triggering Point	To and by whom	Time Period	(a) EVENT BASED DISCLOSURES				29(1)	Acquisition of 5% or more shares or voting rights	To the Target Company and Stock Exchange by the Acquirer	Within 2 working days of: (a) Receipt of intimation of allotment of shares; or (b) Acquisition of shares or voting rights	29(2)	Acquirer already holding 5% or more shares or voting rights, On acquisition/disposal of 2% or more shares or voting rights	To the Target Company and Stock Exchange by the Acquirer/Seller	Within 2 working days of such acquisition/disposal	(b) CONTINUAL DISCLOSURES (Dec 2008)				30 (1)	Any person holding 25% or more shares or voting rights	Target Company & Stock Exchange by such person	Within 7 working days from the end of each financial year	30(2)	Promoter/Person having control over the Target Company	Target Company & Stock Exchange by Promoter	Within 7 working days from the end of each financial year	(c) DISCLOSURE OF PLEDGED/ENCUMBERED SHARES				31(1)	On the encumbrance of shares by the promoter or person acting in concert with him	Target Company & Stock Exchange by the promoter	Within 7 working days from the date of creation of encumbrance	31(2)	On the invocation of or release of such encumbrance by the promoter	Target Company & Stock Exchange by the promoter	Within 7 working days from the date of invocation of encumbrance
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31(2)	On the invocation of or release of such encumbrance by the promoter	Target Company & Stock Exchange by the promoter	Within 7 working days from the date of invocation of encumbrance																																						

	treated as a disposal, and disclosures shall be made by such person accordingly in such form as may be specified: Provided that such requirement shall not apply to a scheduled commercial bank or public financial institution or as pledgee in connection with a pledge of shares for securing indebtedness in the ordinary course of business. EXEMPTIONS: Regulation 10 of the SEBI Takeover Regulations, 2011 provides the Acquirer automatic exemptions from the applicability of making Open Offer to the shareholders of the Target Company in respect of certain acquisitions subject to the compliance of certain conditions specified therein. Further Regulation 11 of SEBI Takeover Regulations, 2011 provides the provisions whereby the acquirer can apply to SEBI for availing the exemption from the Open obligations and the Target Company can apply for relaxation from strict compliance with any procedural requirement relating to Open Offer as provided under Chapters III and IV of the Regulations.
REGULATION 11: EXEMPTION BY SEBI	Regulation 11 provides that on an application being made by the acquirer in writing giving the details of the proposed acquisition and grounds on which the exemption is sought along with duly sworn affidavit, SEBI may grant exemption to the acquirer from the Open Offer obligations subject to the compliance with such conditions as it deems fits. For instance, in case where the exemptions is sought from the Open Offer obligations which has been triggered pursuant to the issue of shares by way of preferential allotment, SEBI may require that the approval of shareholders should be obtained by way of postal ballot. Further, along with the application, the acquirer is also required to pay a non-refundable fee of Rs. 5,00,000 by way of direct credit in the bank account through NEFT/RTGS/IMPS or any other mode allowed by RBI or by way of bankers cheque or demand draft in payable in favour of Mumbai.

UNIT 24: INVESTOR PROTECTION

TO WHOM AN INVESTOR CAN FILE A COMPLAINT AGAINST THE BROKERS/ DEPOSITORY/ REGISTRAR TO ISSUE/ ISSUER COMPANY?	GRIEVANCES	REGULATOR	
	Complain in connection with Banks Deposits and Banks including Non – Banking Financial Company (NBFC)	Reserve Bank of India (RBI) Website – www.rbi.org.in	
	Any matter in connection with the Companies registered under the Companies Act, 2013 whether listed or unlisted.	Ministry of Corporate Affairs (MCA) Website – www.mca.gov.in	
	Insurance companies	Insurance Regulatory and Development Authority (IDRA) Website – www.irdaindia.org	
	Commodities market	Forward Markets Commission Website – www.fmc.gov.in	
	Pension Fund	Pension Fund Regulatory and Development Authority (PFRDA) Website – www.pfrda.org.in	
	Anti – competitive activities	Competition Commission of India (CCI) Website – www.cci.gov.in	
Housing Finance Companies	National Housing Bank (NHB) Website – www.nhb.org.in		
RIGHTS AND RESPONSIBILITIES OF INVESTORS (JUNE 2007)	The Rights of Investor as a Shareholder (i) To receive Share Certificate, on allotment or transfer (ii) To receive notice for calling General meetings (iii) Receive copies of Annual Report containing Balance Sheet, P & L A/C & Auditor’s Report (iv) To participate and vote in general meetings either personally or through proxy (v) To receive dividends in due time once approved in general meetings (vi) To apply to Company Law Board (CLB) to call or direct the calling of an AGM (vii) To inspect the minute books of the general meetings and to receive copies thereof (viii) To proceed against the company by way of civil or criminal proceedings (ix) To apply for the winding up of the company Rights of Investors as a Debenture Holder (i) To receive interest on redemption of debentures in due time (ii) To receive a copy of the trust deed on request (iii) To apply for winding up of the company if the company fails to pay its debt (iv) To approach the Debentures Trustee with your grievance Responsibilities of an Investor as a Security Holder (i) To remain informed (ii) To be vigilant (iii) To participate and vote in genera meetings (iv) To exercise your rights on your own or as a group		
LEGAL FRAMEWORK FOR INVESTOR PROTECTION IN INDIA	The following Acts have been incorporated to Regulate Legal Framework: ➤ Companies Act, 2013 • Acceptance of deposits • Mis – statement in prospectus • Non – payment of dividend • Transfer and transmission of securities • Failure to send financial statement		

	➤ SEBI Act, 1992 ➤ Securities Contracts (Regulation) Act, 1956 ➤ Reserve Bank of India Act, 1934 ➤ Indian Penal Code: Any matter which is connected with cheating, forgery and misappropriation of funds in connection with investment is being dealt with by Economic Offence Wings of Police Departments ➤ The Consumer Protection Act, 1986 ➤ The Depositories Act, 1996
INVESTOR EDUCATION AND PROTECTION FUND (DEC 2015, JUNE 2012, DEC 2008, DEC 2009, DEC 2011, DEC 2013)	Investor Education and Protection Fund (IEPF) has been established under Section 125 of the Companies Act, 2013 for promotion of investor's awareness and protection of the interests of investors. Activities stipulated under Rules (i) Education programme through Media (ii) Organizing Seminars and Symposia (iii) Proposals for registration of Voluntary Associations or other organizations engaged in Investor Education and Protection activities (iv) Proposals for projects for IEP including research activities and proposals for financing such projects (v) Coordinating with institutions engaged in Investor Education, awareness and protection activities. Activities undertaken by IEPF (i) Educating and creating awareness among investors through Voluntary Associations registered under IEPF. 65 associations have been registered so far. (ii) Educating investors through Media Telecast of TV Video spots on DD & private channels, print advertisement in national as well as regional newspapers. All these programmes have been undertaken in Hindi, English and regional languages. (iii) Organizing seminars and workshops through associations registered under IEPF. (iv) Financing research projects pertaining to investor education, awareness. (v) Coordinating with institutions engaged in investor education, awareness. Indian Institute of Capital Markets (IICM) has been engaged for conducting research/study on unclaimed dividend, interest etc. and also conducting Trading of Trainers programme.
SEBI (INVESTOR PROTECTION AND EDUCATION FUND) REGULATIONS, 2009	SEBI in exercise of the powers conferred by section 30 of SEBI Act, 1992, SEBI made the SEBI (Investor Protection and Education Fund) Regulations, 2009. <u>Regulation 4 provides for the Amounts to be Credited to the Fund which are:</u> (i) Contribution grants and donations given to the Fund (ii) Security deposits held by stock exchanges in respect of public issues and rights issues, in the event of de – recognition of such stock exchanges (iii) Amounts in the Investor Protection Fund and Investor Services Fund of a stock exchange, in the event of de – recognition of such stock exchange (iv) Interest or other income received out of any investments made from the Fund (v) grants and donations given to the fund by CG, SG or any other entity approved by SEBI for this purpose; <u>Utilization of Fund</u> The fund shall be utilized for the purpose of protection of investors and promotion of investor education and awareness in accordance with these regulations. <u>The fund may be used for the following purposes, namely:-</u> (i) Educational activities including seminars, training, research and publications, aimed at investors; (ii) Awareness programmes including through media – print, electronic, aimed at

	investors; (iii) Funding investor education and awareness activities of Investors' Associations recognized by SEBI; (iv) Aiding investors' associations recognized by SEBI to undertake legal proceedings in the interest of investors in securities that are listed or proposed to be listed; (v) Refund of the security deposits which are held by stock exchanges and transferred to the Fund consequent on de – recognition of the stock exchanges, in case the concerned companies apply to SEBI and fulfill the conditions for release of the deposit; (vi) Expenses on travel of members of the Committee, who are not officials of the Board, and special investees to the meetings of the Committee, in connection with its work; (vii) Salary, allowances and other expenses of office of Ombudsman. <u>Condition for Aid</u> The aid shall be given by SEBI to investors' associations, in accordance with the guidelines made but it and subject to the following conditions:- (i) Aid shall not exceed seventy – five per cent, of the total expenditure on legal proceedings; (ii) Such aid shall not be considered for more than 1 legal proceeding in a particular matter; (iii) If more than one investors' association applies for seeking legal aid, the investors' association whose application is received first, shall be considered for such aid. <u>Constitution of the Committee</u> SEBI shall constitute an advisory committee for recommending activities that may be undertaken directly by the Board or through any other agency, for utilization of the Fund for the purposes referred in these regulations. <u>The Committee shall consist of the following members, namely:-</u> (i) The Executive Director of SEBI in charge of Office of IAE who shall be the Convener of the Committee (ii) 2 other officials of SEBI (iii) 5 other members who have expertise about the securities market and experience in matters of investor grievance Redressal or investor education The term of office of members shall be 2 years, which may be extended for a further period of 2 years. Any vacancy arising out of resignation, retirement or death of a member or for any other reason shall be filled by the Board for the remaining period of the term of such member. SEBI may dissolve and reconstitute the Committee if SEBI is of the opinion that the Committee is unable to discharge the functions and duties imposed on it by or under these regulations.
OMBUDSMAN	Ombudsman, in is literal sense, is an independent person appointed to hear and act upon citizen's complaints about Government Services. In this regard, SEBI has issued SEBI (Ombudsman) Regulations, 2003. As per this, Ombudsman means any person appointed under the aforesaid regulations and also includes stipendiary ombudsman. Stipendiary Ombudsman means a person appointed for the purpose of acting as Ombudsman in respect of a specific matter and for which he may be paid such expenses, honorarium and sitting fees as may be determined by SEBI from time to time. A Person is Eligible to be Appointed as Stipendiary Ombudsman if he (i) Has held a judicial post or an executive offer under the Central or State Government for at least 10 years; (ii) Is having experience of at least 10 years in matter relating to investor protection;

	(iii) Has been a legal practitioner in corporate matters for at least 10 years; or (iv) Has served for a minimum period of 10 years in any public financial institution. Following are the Important Powers and Functions of Ombudsman: (i) To receive complaints against any intermediary or a listed company; (ii) To consider such complaints and facilitate resolution thereof by amicable settlement; (iii) To approve amicable settlement of the dispute between the parties; and (iv) To adjudicate such complaints in the event of failure of amicable settlement.
INVESTOR FINANCIAL EDUCATION (IMPORTANT)	An increased need for financial education is felt in both developed and developing countries. In developed countries, the increasing number of financial products, its complexity, importance of retirement savings, increased growth of secondary market has made the imparting of financial education imperative for all age groups, including students so that individuals are educated about financial matters as early as possible in their lives. In the developing countries, the growing number of investors, technically advanced financial markets, liberalized economy etc. necessitates imparting of financial education for better operation of markets and economy and in the interest of investor. Further imparting of financial education is international concern due to growth of international transactions, international financial instruments like ADR, GDR etc., mobility of individuals from one country to another etc. <u>Initiatives taken so far on Financial Literacy in India</u> Investor education forms an important part of SEBI's efforts to protect the interest of the investors in securities markets. A series of information brochures and pamphlets have been issued in the past for the benefit of the investors. These publications indicate the various risks associated with capital market investment, the rights of the investors, the responsibilities and details of the grievance redressal machinery available to them and the remedy/relief to be obtained from different agencies like SEBI Ministry of Company Affairs, Stock Exchanges, Reserve Bank of India and Registrars to the Issue, apart from seeking relief through Consumers Disputes Redressal Forums, Company Law Board and Court of Law. The investors' associations registered with SEBI, the stock exchanges and professional bodies also conduct investors' education programmes from time to time to appraise the investors of the changes in the law and regulations and the methods of protecting themselves against malpractices and delays cropping up in the market. This is further supplemented by the journals and magazines in the field of corporate investment as well as newspaper articles which highlight the newly emerging problems, pitfalls and the methods to protect. <u>Securities Market Awareness Campaign</u> SEBI has also launched a comprehensive securities market awareness campaign for educating investors through workshops, audio – visual clippings, distribution of educative investor materials/booklets, dedicated investor website etc. It has also recognized certain investor associations through which the investor is educated. <u>Financial Literacy – cum – Counselling Centre (Dec 2011)</u> RBI has advised State Level Bankers' Committee convenor banks to set up, on a pilot basis, a financial literacy – cum – counseling centre in any one district, and based on the experience gained, to ask the concerned lead banks to set up such centres in other districts. It has also undertaken a project on financial literacy by asking banks to introduce comic books explaining terms like inflation, how to open an account, interest rates, etc.
INITIATIVES	RBI's Initiatives

TAKEN SO FAR ON FINANCIAL LITERACY IN INDIA (June 2017)	RBI has undertaken a project titled “Project Financial Literacy”. The objective of this project is to disseminate information regarding the central bank and general banking concepts to various target groups like school and college students, women, rural and urban poor, defense personnel and senior citizens. This project has been implemented in two modules, one module focusing on the economy, RBI and its activities, and the other module on general banking. The material is created in English and other vernacular languages. SEBI’s Initiatives SEBI has started a nationwide financial education campaign to impart financial education to various target groups like school and college student, working executives, home makers, retired personnel, self help group etc. Investor education programmes are conducted by SEBI through investor associations all over the country. Regional seminars are conducted by SEBI through various stakeholders viz. Stock Exchanges, Depositories, Mutual Funds Association of Merchant Bankers etc. Ministry of Corporate Affairs (MCA) Initiatives Ministry of Corporate Affairs (MCA) has a dedicated approach for empowering investors through education and awareness building. MCA on 27th September, 2007 launched a website www.iepf.gov.in. It provides information about IEPF and the various activities that have been undertaken/funded by it. This website provides information on various aspects such as role of capital market, IPO investing, Mutual Fund Investing, Stock Investing, Stock Trading, Depository Account, Debt Market, Derivatives, Indices, Indices (comic strip), Index Fund, Investor Grievance & Arbitration (Stock Exchanges), Investor Rights & Obligations, Do’s and Don’ts etc. Ministry of Corporate Affairs has taken various initiatives to educate investors, particularly, since 2001, the Investor Education and Protection Fund (IEPF) has been working for educating the investors and for creating greater awareness about investments in the corporate sector. <u>The Institute of Company Secretaries of India (ICSI)</u> is organizing Investor Awareness Programmes under IEPF since 2005 and has organized more than 1700 Investor Awareness Programmes.
INVESTOR GRIEVANCE REDRESSAL MECHANISM AT SEBI	<u>Investor Grievance</u> There will be occasions when an investor has a complaint against a listed company or an intermediary registered with SEBI. In the event of such complaint, the investor should first approach the concerned company/intermediary against whom there is a complaint. Sometimes the response received may not be satisfactory. Therefore, investors should know as to which authority they should approach, to get their complaints redressed. <u>GENERAL GRIEVANCES OF INVESTORS: (June 2008, June 2012)</u> ✓ Delay/default in payment of interest and repayment of deposits. ✓ Delay in listing of securities with Stock Exchanges ✓ Delay/Non receipt of refund orders, allotment letters and share certificates/Debenture certificates/ bonds ✓ Furnishing inadequate information or making misrepresentation in prospectus, application form, advertisements and rights offer documents. ✓ Delay/ Non receipt of Bonus Shares/ Rights Shares ✓ Non receipt of Notices for meetings ✓ Non Receipt of Annual Reports

SCORES (SEBI Complaints Redress System): (JUNE 2018, JUNE 2015, DEC 2015, DEC 2013)

SCORES is a web based centralized grievance redress system of SEBI (www.scores.gov.in). SCORES enables investors to lodge and follow up their complaints and track the status of redressal of such complaints from anywhere.

This enables the market intermediaries and listed companies to receive the complaints online from investors, redress such complaints and report redressal online. All the activities starting from lodging of a complaint till its closure by SEBI would be online in an automated environment and the complainant can view the status of his complaint online.

Features:

- (i) SCORES is web enabled and provides online access 24 × 7;
- (ii) Complaints and reminders thereon can be lodged online at anytime from anywhere;
- (iii) An e – mail is generated instantly acknowledging the receipt of complaint and allotting a unique complaint number to the complainant for future reference and tracking;
- (iv) The complaint forwarded online to the entity concerned for its redressal;
- (v) The entity concerned uploads an Action Take Report (ATR) on the complaint;
- (vi) SEBI peruses the ATR and closes the complaint if it is satisfied that the complaint has been redressed adequately;
- (vii) The concerned investor can view the status of the complaint online from the above website by logging in the unique complaint registration number;
- (viii) The entity concerned and the concerned investor can seek and provide clarification on his complaint online to each other;
- (ix) Every complaint has an audit trail; and
- (x) All the complaints are saved in a central database which generates relevant MIS reports to enable SEBI to take appropriate policy decisions and/or remedial actions, if any.

How to file a complaint on Scores? (Dec 2014)

- To register a complaint online on SCORES Portal (<http://scores.gov.in>) click on Complaint Registration under Investor Corner.
- The complaint registration form contains personal details and complaint details.
- There are certain mandatory fields in the form. These fields includes name, Address for correspondence, state, email address.
- After filling the personal details, select the complaint category, entity name, nature of complaint related to, complaint details in brief (upto 1000 characters)
- A PDF document (upto 1MB of size for each nature of complaint) can also be attached along with the complaint as the supporting documents.

What are the limitations in dealing with complaints?

Sometimes a complaint is successfully resolved and the entity is advised to send reply to complainant. But in certain cases, the entity or company denies wrongdoing, and it remains unclear as to who is wrong or whether any wrongdoing occurred at all. If this happens, SEBI cannot act as a judge or an arbitrator and force the entity or company to resolve the complaint. Further, SEBI cannot act as personal representative or attorney of the complainant. Securities laws and other laws provide important legal rights and remedies if an investor has suffered wrongdoing. On their own, investors can also seek to resolve their complaint through the courts, consumer courts, or arbitration.

When can a case be referred for arbitration?

If the grievance is not resolved by the Stock Exchange/Depository due to disputes, an investor can file arbitration subject to the Bye-laws, Rules and Regulations of the exchange / Depository. All claims, differences or disputes between the investors and stock brokers/depository participants can be filed for arbitration. To obtain information

	about when and how to file an arbitration claim, please visit: Bombay Stock Exchange http://www.bseindia.com/invdesk/Arbitrage.asp National Stock Exchange http://www.nseindia.com/content/assist/asst_investser.htm Central Depository Services Limited http://www.cdslindia.com/downloads/Operating%20Instruction/Chapters-as-of-June-2011.pdf National Securities Depository Limited https://nsdl.co.in Simplified arbitration can be a less costly alternative to legal recourse before the courts of law. If the investor has an account with the broker or a depository participant (DP), he/she can choose arbitration to settle disputes. The investor generally cannot pursue an issue through arbitration if it is barred by limitation prescribed. When deciding whether to arbitrate, the investor has to bear in mind that if the broker or DP goes out of business or declares bankruptcy, he/she might not be able to recover money even if the arbitrator or court rules in his/her favor. However, with certain restriction to the nature of transactions, Stock Exchanges may settle on case to case basis the claim of an investor up to a limit prescribed in the “Investor protection fund” guidelines of the respective Stock Exchange. The claimant is required to carefully review the rules governing simplified arbitration before filing a claim and should also weigh the costs of arbitrating against the likelihood of being able to collect any award in favor. An investor, who has a claim / counter claim upto ₹10 lakh and files arbitration reference for the same within six months, need not make any deposit for filing arbitration. When can SEBI take action for non-resolution of the complaint? While the entity is directly responsible for redressal of the complaint, SEBI initiates action against recalcitrant entities on the grounds of their unsatisfactory redressal of large number of investor complaints as a whole. Which are the matters that are not considered as complaints by SEBI? – Complaints that are incomplete or not specific – Allegations without supporting documents – Offering suggestions or seeking guidance/explanation – Seeking explanation for non-trading of shares or illiquidity of shares – Not satisfied with trading price of the shares of the companies – Non-listing of shares of private offer – Disputes arise out of private agreement with companies/intermediaries.
SEBI (INFORMAL GUIDANCE) SCHEME, 2003	The following persons may make a request for informal Guidance under the scheme: (a) any intermediary registered with the SEBI. (b) any listed company. (c) any company which intends to get any of its securities listed and which has filed either a listing application with any stock exchange or a draft offer document with the Board or the Central Listing authority. (d) any mutual fund trustee company or asset management company. (e) any acquirer or prospective acquirer under the SEBI (Substantial Acquisition of Shares & Takeovers) Regulations, 2011. The informal guidance may be sought for and given in two forms: – No action letters: SEBI indicates that the Department would or would not recommend any action under any Act, Rules, Regulations, Guidelines, Circulars or other legal provisions administered by SEBI to the Board if the proposed transaction is done.

– **Interpretive letters:** SEBI provides an interpretation of a specific provision of any Act, Rules, Regulations, Guidelines, Circulars or other legal provision being administered by SEBI in the context of a proposed transaction in securities or a specific factual situation.

The request seeking informal guidance should state that it is being made under this scheme and also state whether it is a request for a no action letter or an interpretive letter and should be accompanied with a fee of ₹ 25,000/- and addressed to the concerned Department of SEBI.

It should also describe the request, disclose and analyse all material facts and circumstances involved and mention all applicable legal provisions.

SEBI may dispose off the request as early as possible and in any case not later than 60 days after the receipt of the request.

SEBI may not respond to the following types of requests:

- (a) those which are general and those which do not completely and sufficiently describe the factual situation;
- (b) those which involve hypothetical situations;
- (c) those requests in which the requestor has no direct or proximate interest;
- (d) where the applicable legal provisions are not cited;
- (e) where a no action or interpretive letter has already been issued by that or any other Department on a substantially similar question involving substantially similar facts, as that to which the request relates;
- (f) those cases in which investigation, enquiry or other enforcement action has already been initiated;
- (g) those cases where connected issues are pending before any Tribunal or Court and on issues which are subjudice; and,
- (h) those cases where policy concerns require that the Department does not respond.

Where a request is rejected for non-compliance, the fee if any paid by the requestor shall be refunded to him after deducting therefrom a sum of ₹ 5,000/- towards processing charges. However SEBI is not be under any obligation to respond to a request for guidance made under this scheme, and shall not be liable to disclose the reasons for declining to reply the request.

Confidentiality of Request (Dec 2016)

- ❖ Any person submitting a letter or written communication under this scheme may request that it receive confidential treatment for a specified period of time not exceeding 90 days from the date of the Department's response.
- ❖ The request shall include a statement of the basis for confidential treatment.
- ❖ If the Department determines to grant the request, the letter or written communication will not be available to the public until the expiration of the specified period.
- ❖ If it appears to the Department that the request for confidential treatment should be denied, the requestor will be so advised and such person may withdraw the letter or written communication within 30 days of receipt of the advise, in which case the fee, if any, paid by him would be refunded to him.
- ❖ In case a request has been withdrawn under clause (c), no response will be given and the letter or written communication will remain with the SEBI but will not be made available to the public.
- ❖ If the letter or written communication is not withdrawn, it shall be available to the public together with any written staff response.
- ❖ A no action letter or an interpretive letter issued by a Department constitutes the view of the Department but will not be binding on SEBI, though the SEBI may generally act in accordance with such a letter.

	❖ The letter issued by a Department under this scheme should not be construed as a conclusive decision or determination of any question of law or fact by SEBI. Such a letter cannot be construed as an order of SEBI under Section 15T of the Act and shall not be appealable. ❖ Where a no action letter is issued by a Department affirmatively, it means that the Department will not recommend enforcement action to the Board, subject to other provisions of this scheme.
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STANDARD CODE OF CONDUCT FORMAT

(Common Points that can be written in any question relating to Code of Conduct)

1. A _____ shall make all efforts to **protect the interests of investors**.
2. A _____ shall maintain **high standards of integrity, dignity and fairness** in the conduct of its business.
3. A _____ shall fulfil its obligations in a **prompt, ethical, and professional manner**.
4. A _____ shall at all times exercise **due diligence**, ensure proper care and exercise **independent** professional judgment.
5. A _____ shall endeavor to ensure that –
 - (a) **Inquiries** from investors are adequately dealt with;
 - (b) **Grievances** of investors are redressed in a timely and appropriate manner;
 - (c) Where a complaint is **not remedied** promptly, the investor is advised of any **further steps** which may be available to the investor under the regulatory system.
6. A _____ shall ensure that **adequate disclosures** are made to the investors in a **timely manner** in accordance with the applicable regulations and guidelines so as to enable them to make a balanced and informed decision.
7. A _____ shall endeavor to ensure that the investors are provided with true and adequate information without making any misleading or **exaggerated claims** or any misrepresentation and are **made aware** of the **attendant risks** before taking any investment decision.
8. A _____ shall endeavor to ensure that copies of the prospectus, offer document, letter of offer or any other related literature is made available to the investors at the time of issue or the offer.
9. A _____ **shall not discriminate amongst its clients**, save and except on ethical and commercial considerations.
10. A _____ shall **not make any statement**, either oral or written, which would **misrepresent the services** that the merchant banker is capable of performing for any client or has rendered to any client.
11. A _____ shall **avoid conflict of interest** and make adequate disclose of its interest.
12. A _____ shall **put in place a mechanism to resolve any conflict** of interest situation that may arise in the conduct of its business or where any conflict of interest arises, shall take reasonable steps to resolve the same in an equitable manner.
13. A _____ shall **make appropriate disclosure** to the client of its possible source or potential **areas of conflict** of duties and interest while acting as merchant banker which would impair its ability to render fair, objective and unbiased services.
14. A _____ shall always Endeavour to render the **best possible advice** to the clients having regard to their needs.

15. A _____ shall not divulge to anybody either orally or in writing, directly or indirectly, **any confidential information** about its clients which has come to its knowledge, without taking prior permission of its clients, except where such disclosures are required to be made in compliance with any law for the time being in force.

STANDARD ELIGIBILITY CRITERIA FORMAT

1. The applicant has **NECESSARY INFRASTRUCTURE** like adequate office space, equipments and manpower to effectively discharge the activities of a _____;
2. The applicant has in its employment minimum two person who, between them, have at least five years' experience as _____ or _____ or _____;
3. Any **PREVIOUS APPLICATION** for grant of certificate made by any person directly or indirectly connected with the applicant has been **REJECTED BY SEBI**;
4. **ANY DISCIPLINARY ACTION** has been taken by board against a person directly or indirectly connected with the applicant; (person connected means any person being an associate, subsidiary, inter-connected company or company under same management or in same group)
5. The applicant fulfills the **CAPITAL ADEQUACY** requirements;
6. The applicant, its director, principal officer or employee is involved in **ANY LITIGATION CONNECTED WITH THE SECURITIES MARKET** which has an adverse bearing on business of the applicant;
7. The applicant, its director, principal officer or the employee has at any time been convicted for any **OFFENCE INVOLVING MORAL TURPITUDE OR HAS BEEN FOUND GUILTY OF ANY ECONOMIC OFFENCE**;
8. The applicant is a **FIT AND PROPER PERSON**;
9. Grant of certificate to the applicant is in the **INTEREST OF INVESTORS**;