

# Financial Services & Capital markets

## Significant Amendments Applicable For Nov 2020 Exams

### SEBI REGULATIONS, 2018

Reference	Old Regulation	New Regulation
Para 2	a foreign portfolio investor other than Category III foreign portfolio investor, registered with the Board;	foreign portfolio investors other than individuals, corporate bodies and family offices;
Para 2	-	(fff) [(eeee) "SR equity shares" means the equity shares of an issuer having superior voting rights compared to all other equity shares issued by that issuer.]
Para 16 (2)	-	[(2) The SR equity shares shall be under lock-in until conversion into equity shares having voting rights same as that of ordinary shares or shall be locked-in for a period specified in sub-regulations (1), whichever is later.]
Para 128(c)	in case of a 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	-
Para 31		<p><b>Minimum offer to public</b></p> <p>1. The minimum offer to the public shall be subject to the provisions of clause (b) of sub-rule (2) of rule 19 of Securities Contracts (Regulations) Rules, 1957.</p>
Para 63 (4)		<b>Where the issuer has issued SR equity shares to its promoters or founders, then such a SR shareholder shall not renounce their rights and the SR shares received in a rights issue shall remain under lock-in until conversion into equity shares having voting rights same as that of ordinary equity shares along with existing SR equity shares.</b>
Para 70 (7)		<b>In the letter of offer and the abridged letter of offer, the issuer shall disclose the process of credit of rights entitlements in the demat account and renunciation thereof.]</b>
		<b>Credit of rights entitlements and allotment of</b>

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		<p><b>specified securities.</b></p> <p>(1) The rights entitlements shall be credited to the demat account of the shareholders before the date of opening of the issue</p> <p>(2) Allotment of specified securities shall be made in the dematerialised form only</p>
Para 84(1)	The issuer shall issue an advertisement 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, at least three days before the date of opening of the issue, disclosing the following:	The issuer shall issue an advertisement 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, [and also give an intimation to the stock exchanges for dissemination on their websites], at least [two] days before the date of opening of the issue, disclosing the following:
Para 87	The rights issue shall be kept open for subscription for a minimum period of fifteen days and for a maximum period of thirty days.	The rights issue shall be kept open for subscription for a minimum period of fifteen days and for a maximum period of thirty days [and no withdrawal of application shall be permitted after the issue closing date].
Para 113 (5)		The SR equity shares of promoters, if any, shall be eligible towards computation of minimum promoters' contribution
Para 115 (c)		The SR equity shares shall be under lock-in until their conversion to equity shares having voting rights same as that of ordinary shares, provided they are in compliance with the other provisions of these regulations
Para 172 (3)	The issuer shall not make any subsequent qualified institutions placement until the expiry of six months from the date of the prior qualified institutions placement made	The issuer shall not make any subsequent qualified institutions placement until the expiry of [two weeks] from the date of the prior qualified institutions placement made pursuant to one or more special resolutions

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	pursuant to one or more special resolutions.	
Para 294 (5)	-	If an issuer has issued SR equity shares to its promoters or founders, any bonus issue on the SR equity shares shall carry the same ratio of voting rights compared to ordinary shares and the SR equity shares issued in a bonus issue shall also be converted to equity shares having voting rights same as that of ordinary equity shares along with existing SR equity shares.]

The following are new additional sections inserted:

(3) If an issuer has issued SR equity shares to its promoters/ founders, the said issuer shall be allowed to do an initial public offer of only ordinary shares for listing on the Main Board subject to compliance with the provisions of this Chapter and these clauses –

- i. the issuer shall be 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.
- ii. the SR shareholder shall not be part of the promoter group whose collective net worth is more than rupees 500 crores:  
Explanation: While determining the collective net worth, the investment of SR shareholder in the shares of the issuer company shall not be considered.
- iii. The SR shares were issued only to the promoters/ founders who hold an executive position in the issuer company;
- iv. The issue of SR equity shares had been authorized by a special resolution passed at a general meeting of the shareholders of the issuer, where the notice calling for such general meeting specifically provided for –
  - a. the size of issue of SR equity shares,
  - b. ratio of voting rights of SR equity shares vis-à-vis the ordinary shares,
  - c. rights as to differential dividends, if any
  - d. sunset provisions, which provide for a time frame for the validity of such SR equity shares,
  - e. matters in respect of which the SR equity shares would have the same voting right as that of the ordinary shares,
  - v. The SR equity shares have been held for a period

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- of at least 6 months prior to the filing of the red herring prospectus;
- vi. The SR equity shares shall have voting rights in the ratio of a minimum of 2:1 upto a maximum of 10:1 compared to ordinary shares and such ratio shall be in whole numbers only;
  - vii. The SR equity shares shall have the same face value as the ordinary shares;
  - viii. The issuer shall only have one class of SR equity shares;
  - ix. The SR equity shares shall be equivalent to ordinary equity shares in all respects, except for having superior voting rights.]

## **[Pricing in preferential issue of shares of companies having stressed assets**

**164A.** (1) In case of frequently traded shares, the price of the equity shares to be allotted pursuant to the preferential issue shall not be less than the average of the weekly high and low of the volume weighted average price of the related equity shares quoted on a recognised stock exchange during the two weeks preceding the relevant date.

(2) No allotment of equity shares shall be made unless the issuer company meets any two of the following criteria:

- a) the issuer has disclosed all the defaults relating to the payment of interest/ repayment of principal amount on loans from banks / financial institutions/ Systemically Important Non-Deposit taking Non-banking financial companies/ Deposit taking Non-banking financial companies and /or listed or unlisted debt securities in terms of SEBI Circular dated November 21, 2019 and such payment default is continuing for a period of at least 90 calendar days after the occurrence of such default;
- b) there is an Inter-creditor agreement in terms of Reserve Bank of India (Prudential Framework for Resolution of Stressed Assets) Directions 2019 dated June 07, 2019;
- c) the credit rating of the financial instruments (listed or unlisted), credit instruments / borrowings (listed or unlisted) of the listed company has been downgraded to "D".

(3) The issuer company making the preferential issue shall ensure compliance with the following conditions:

- a) The preference issue shall be made to a person not part of the promoter or promoter group as on the date of the board meeting to consider the preferential issue. The preference issue shall not be made to the following entities:
  - (i) undischarged insolvent in terms of the Insolvency and Bankruptcy

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Code, 2016;

- (ii) 'willful defaulter' as per the guidelines of the Reserve Bank of India issued under the Banking Regulation Act, 1949;
- (iii) person disqualified to act as a director under the Companies Act, 2013;
- (iv) a person debarred from trading in securities or accessing the securities market by the Board;

**Explanation:** The restriction under (iv) 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 the board meeting considering the preferential issue.

- (v) a person declared as a fugitive economic offender;
- (vi) a person who has been convicted for any offence punishable with imprisonment-
  - A. For two years or more under any Act specified under the Twelfth Schedule of the Insolvency and Bankruptcy Code, 2016
  - B. For seven years or more under any law for the time being in force:

**Provided** that such restriction shall not be applicable to a person after the expiry of a period two years from the date of his release from imprisonment.

- (vii) A person who has executed a guarantee in favour of a lender of the issuer and such guarantee has been invoked by the lender and remains unpaid in full or part.

(4) The resolution for the preferential issue and exemption from open offer shall provide for the following:

- a) The votes cast by the shareholders in the 'public' category in favour of the proposal shall be more than the number of votes cast against it. The proposed allottee(s) in the preferential issue that already hold specified securities shall not be included in the category of 'public' for this purpose:

**Provided** that where the company does not have an identifiable promoter; the resolution shall be deemed to have been passed if the votes cast in favour are not less than three times the number of the votes, if any, cast against it.

(5) The proceeds of such preferential issue shall not be used for any repayment of loans taken from promoters/ promoter group/ group companies. The proposed use of proceeds shall be disclosed in the explanatory statement sent for the purpose of the shareholder resolution.

(6) (a) The issuer shall make arrangements for monitoring the use of proceeds of the issue by a public financial institution or by a scheduled commercial bank, which is not a related party to the issuer:

- (i) The monitoring agency shall submit its report to the issuer in the

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format specified in terms of Schedule XI (with fields as applicable) on a quarterly basis until at least ninety five percent of the proceeds of the issue have been utilized.

- (ii) (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.
- (iii) 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 submit the same to the stock exchange(s) on which the equity shares of the issuer are listed.
- (a) The proceeds of the issue shall also be monitored by the Audit Committee till utilization of the proceeds.
- (7) The allotment made shall be locked-in for a period of three years from the last date of trading approval.
- (8) The statutory auditor and the audit committee shall certify that all conditions under sub-regulations (1), (2), (3), (4) and (5) of regulation 164A are met at the time of dispatch of notice for general meeting proposed for passing the special resolution and at the time of allotment.]

## **Optional pricing in preferential issue**

- 164B.** (1) In case of frequently traded shares, the price of the equity shares to be allotted pursuant to the preferential issue shall be determined by regulation 164 or regulation 164B, as opted for.
- (2) The price of the equity shares to be allotted pursuant to the preferential issue shall not be less than the higher of the following:
    - (a) the average of the weekly high and low of the volume weighted average price of the related equity shares quoted on the recognised stock exchange during the twelve weeks preceding the relevant date; or
    - (a) the average of the weekly high and low of the volume weighted average prices of the related equity shares quoted on a recognised stock exchange during the two weeks preceding the relevant date.
  - (3) Specified securities allotted on a preferential basis using the pricing method determined under sub-regulation (2) shall be locked-in for a period of three years.
  - (4) The pricing method determined at sub-regulation (2) shall be availed in case of allotment by preferential issue made between July 01, 2020 or from the date of notification of this regulation, whichever is later and December 31, 2020.

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- (5) All allotments arising out of the same shareholders' approval shall follow the same pricing method.]

## **PART V: MIGRATION TO THE MAIN BOARD**

### **Granting companies listed on the Innovators Growth Platform pursuant to an initial public offer, an option to trade under the regular category of the main board of the stock exchange**

- 292. (1)** A company shall be eligible to trade under the regular category of the main board of the stock exchanges, subject to fulfillment of the conditions of the stock exchanges, if any, and the fulfillment of the following conditions:
- (a) It has listed its specified securities for a minimum period of one year on the Innovators Growth Platform of a recognised stock exchange;
  - (b) It has minimum of two hundred shareholders, at the time of making the application for trading under the regular category;
  - (c) The company, any of its promoters, promoter group or directors are not debarred from accessing the capital market by the Board;
  - (d) None of the promoters or directors of the company is a promoter or director of any other company which is debarred from accessing the capital market by the Board;
  - (e) The company or any of its promoters or directors is not a willful defaulter; and
  - (f) None of the promoters or directors of the Company is a fugitive economic offender.

**Explanation:** The restrictions under (c) and (d) above shall not apply to persons or entities mentioned therein, who were debarred in the past by the Board and the period of debarment is over as on the date of application for migration of trading to the regular category of the main board of the stock exchange.

#### **Eligibility requirements**

- (2) A company shall be eligible to trade under the regular category of the main board of the stock exchanges, only if:
- (a) it has net tangible assets of at least three crore rupees, calculated on a consolidated basis, in each of the preceding three full years (of twelve months each), of which not more than fifty per cent. are held in monetary assets;
  - (b) it has an average operating profit of at least fifteen crore rupees, calculated on a consolidated basis, during the preceding three years (of twelve months each), with operating profit in each of these preceding three years;
  - (c) it has a net worth of at least one crore rupees in each of the preceding three full years (of twelve months each), calculated

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on a consolidated basis; and

- (d) in case it has changed its name within the last one year, at least fifty per cent of the revenue, calculated on a consolidated basis, for the preceding one full year has been earned by it from the activity indicated by its new name.

A company not satisfying the conditions laid down under sub-regulation (2) of regulation 292, shall, at the time of applying to trade under the regular category, have seventy five per cent. of its capital, as on date of application for migration, held by Qualified Institutional Buyers.

## **Minimum promoters' contribution**

- (3) The promoters of the company shall hold at least twenty per cent of the total capital:

Provided that in case the total capital held by 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, subject to a maximum of ten per cent of the total capital without being identified as promoter(s):

Provided further that the requirement of minimum promoters' contribution shall not apply in case a company does not have any identifiable promoter.

## **Lock-in period**

- (4) (a) The minimum promoters' contribution including contribution made by alternative investment funds or foreign venture capital investors or scheduled commercial banks or public financial institutions or insurance companies registered with the Insurance Regulatory and Development Authority of India, shall be locked in for a period of three years from the date on which trading approval in regular category of main board is granted, and any excess over and above the 20% of promoter's holding shall be locked-in for a period of one year.
- (b) Wherever the contributions made by such entities had been locked-in for a period of six months at the time of listing of shares of the Company on the Innovators Growth Platform, and the company is desirous of migrating to the regular trade category of the main board after 169 completion of listing on the Innovators Growth Platform for one year, such period shall be deducted from the stipulated lock-in requirement of three years and one year, as may be applicable.
- (c) The condition of lock in would not apply to a Company which has been listed on the Innovators Growth Platform for a minimum period of three years or more.]



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## CHAPTER XI-A

### POWER TO RELAX STRICT ENFORCEMENT OF THE REGULATIONS

#### **Exemption from enforcement of the regulations in special cases.**

- 295A.** (1) The Board may, exempt any person or class of persons from the operation of all or any of the provisions of these regulations for a period as may be specified but not exceeding twelve months, for furthering innovation in technological aspects relating to testing new products, processes, services, business models, etc. in live environment of regulatory sandbox in the securities markets.
- (2) Any exemption granted by the Board under sub-regulation (1) shall be subject to the applicant satisfying such conditions as may be specified by the Board including conditions to be complied with on a continuous basis.

**Explanation** — For the purposes of these regulations, "regulatory sandbox" means a live testing environment where new products, processes, services, business models, etc. may be deployed on a limited set of eligible customers for a specified period of time, for furthering innovation in the securities market, subject to such conditions as may be specified by the Board.]