

**OVERVIEW OF SECURITIES AND EXCHANGE BOARD OF INDIA
(DELISTING OF EQUITY SHARES) REGULATIONS, 2021**

**CHAPTER I
PRELIMINARY**

- Inserted definitions of Acquirer; bidding period; control; Company Secretary in practice; detailed public announcement; delisting; delisting period; discovered price; floor price; frequently traded shares; indicative price; innovators growth platform; initial public announcement; “Insolvency Code; Peer Review Company Secretary; persons acting in concert; promoter; valuer; volume weighted average price.

**CHAPTER II
DELISTING OF EQUITY SHARES**

3. SCOPE AND APLICABILITY

These regulation to delisting of equity shares (ES) including equity shares with superior rights

They do not apply to delisting of ES of a listed company that are-

- traded on innovators growth platform without making public issue
- made pursuant to resolution plan, if such plans provides for delisting exit opportunity

The exit price available to shareholders shall not be less than exit price of promoters.

Disclose the said price to Recognized Stock Exchange (RSE) within one day of approval resolution plan.

4. CONDITIONS FOR DELISTING

No company shall apply for delisting unless-

- 3 years has elapsed from listing of ES
- If any convertible instrument is outstanding
- 6 months has elapsed from buyback or preferential allotment
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The acquirer shall not propose delisting, if he has sold his shares during six months of initial public announcement (IPO)

Funds of the company shall not be used for financing exit opportunity

No acquirer shall engage in any activity to defraud/deceit shareholders in anyway

**CHAPTER III
VOLUNTARY DELISTING**

<p style="text-align: center;">5. DELISTING FROM SOME OF THE RECOGNISED STOCK EXCHANGES</p>
<p>A company may delist ES from one or more recognized stock exchange (RSE) without exit opportunity, if ES remains listed on other RSE.</p>
<p style="text-align: center;">6. PROCEDURE FOR DELISTING WHERE NO EXIT OPPORTUNITY IS REQUIRED</p>
<p>The Company desirous of delisting ES shall-</p> <ul style="list-style-type: none">- Approval of Directors ✓- Application to RSE ✓- Public notice in English, Hindi and vernacular language- Disclose in first annual report post delisting- <p>Public notice shall disclose name of RSE from where ES are delisted RSE shall dispose of the application within 30 days of its receipt</p>
<p style="text-align: center;">7. DELISTING FROM ALL THE RECOGNISED STOCK EXCHANGES</p>
<p>Company can delist ES from all RSE after giving exit opportunity to shareholders</p>
<p style="text-align: center;">8. INITIAL PUBLIC ANNOUNCEMENT (IPA)</p>
<p>The Company shall make IPA on the date when the acquirer wants to delist ES. Copy of IPA = send to Registered Office within 1 working day of IPA</p> <p>IPA shall mention-</p> <ul style="list-style-type: none">- Reason for delisting- Undertaking <p>IPA shall not omit any relevant information & contain any misleading information.</p>
<p style="text-align: center;">9. APPOINTMENT OF THE MANAGER TO THE OFFER</p>
<p>Appoint a merchant banker registered with the Board as the Manager to the offer. Manager ≠ associate of the acquirer</p> <p>All the activities shall be undertaken by acquirer through Manager</p>
<p style="text-align: center;">10. APPROVAL BY THE BOARD OF DIRECTORS</p>
<p>Obtain Board of Directors (BOD) approval within 21 days of IPA.</p> <p>The BOD shall appoint Peer Review Company Secretary (CS) for conducting due diligence. BOD shall provide details of-</p> <ul style="list-style-type: none">- buying, selling and dealing of acquirer in ES during 2 years prior to date of board meeting held for proposing delisting- off market transactions of all the shareholders- other information- <p>CS shall provide certify the company that everything is complied with. BOD shall certify that-</p> <ul style="list-style-type: none">- Company & acquirer are in compliance- Delisting is in shareholders' interest <p>The Company shall send the due diligence report to RSE with audit report On receipt, the RSE shall make it public</p>

11. APPROVAL BY SHAREHOLDERS

Approval of shareholders = By Special Resolution (SR) passed within 45 days of board meeting

SR = passed through postal ballot and / or e-voting
Disclose all material information in Explanatory statement

Votes in favor of SR \geq 2 times votes against it

12. IN-PRINCIPLE APPROVAL OF THE STOCK EXCHANGE

Make an application to RSE for in-principle approval within 15 working days of passing SR.

Audit report shall be shared with such application

RSE shall dispose of the application within 15 working days of its receipt.

RSE may ensure that-

- Compliance with Regulation 10 & 11
- resolution of investor grievances
- payment of listing fees
- any litigation or action pending against the company pertaining compliance with Securities and Exchange Board of India (Listing Obligations and
- Disclosure Requirements) Regulations, 2015

CHAPTER IV
EXIT OPPORTUNITY

13. APPLICABILITY

The provisions of this Chapter shall apply to the proposal for delisting of equity shares of a company

14. ESCROW ACCOUNT

The acquirer = open an interest bearing escrow account with a Scheduled Commercial Bank within 7 working days of shareholders' approval.

Deposit = 25% of total consideration

Total consideration = No. of Equity Shares x Higher of Floor Price/Indicative Price

Acquirer shall enter into Tripartite Agreement with Manager & Bank. Manager shall be authorized to operate the bank account.

Before public announcement, Acquirer shall deposit 75% of Amount (Amount=No. of Equity Shares x Higher of Floor Price/Indicative Price)

On making public announcement, acquirer shall deposit an amount enough to make up the entire sum due and payable as consideration.

<p>Such account shall consist of cash/bank guarantee/both</p> <p>If the delisting is failed, 99% of amount in bank account shall be transferred back to acquirer within 1 working day. Remaining 1% shall be released post return of the shares to the public shareholders or confirmation of revocation of lien marked on their shares by the Manager.</p>
<p style="text-align: center;">15. DETAILED PUBLIC ANNOUNCEMENT (DPA)</p>
<p>Acquirer = make DPA in newspaper in English, Hindi & one vernacular language. DPA= contain all material information</p> <p>It shall specify date which shall be 'specified date' determining the names of the shareholders to whom the letter of offer shall be sent (Date = day prior to making DPA)</p> <p>DPA= dated & signed by acquirer</p>
<p style="text-align: center;">16. LETTER OF OFFER (LOF)</p>
<p>Acquirer = dispatch LOF within 2 working days from DPA Copy of LOF = put on website LOF= contain all disclosures Public shareholders may inspect all documents</p> <p>LOF= accompanied by Form for the use of public shareholders for the purpose of either creating a lien or tendering the physical shares An eligible shareholder may make bid without the form</p>
<p style="text-align: center;">17. BIDDING MECHANISM</p>
<p>The bidding period = begin with 7 days of DPA and open for 5 working days Announce outcome of reverse book building process (BBP) is announced within 2 hours of the closure of the bidding period</p> <p>Acquirer with Manager = make public announcement w.r.t. success/failure of reverse book building process in newspaper as done during DPA</p> <p>Disclose discovered price accepted by the acquirer in the event of success of the said process in newspaper.</p>
<p style="text-align: center;">18. MANNER OF TENDERING SHARES</p>
<p>The equity shares shall be tendered/offered by the public shareholders, including by way of marking a lien through the stock exchange mechanism, in the manner specified by the Board.</p>
<p style="text-align: center;">19. RIGHT OF SHAREHOLDERS TO PARTICIPATE IN THE REVERSE BOOK BUILDING PROCESS</p>
<p>Shareholders shall participate in reverse book building process</p> <p>Holder of depository receipts issued on the basis of underlying equity shares and a custodian keeping custody of such equity shares shall not be entitled to participate in the reverse book building process</p> <p>He may participate after conversion of depository receipts into equity shares</p>

20. DISCOVERED PRICE (DP)
After fixation of floor price, DP = determined through the reverse book building (Schedule II)
Floor price = determined as per regulation 8 of Takeover Regulations Acquirer may have an option to <ul style="list-style-type: none">- provide an indicative price in respect of the delisting offer- revise the indicative price upwards before the start of the bidding period and the same shall be duly disclosed to the shareholders- pay a price higher than the discovered price
21. MINIMUM NUMBER OF EQUITY SHARES TO BE ACQUIRED
An offer/counter offer made shall be successful, if post offer shareholding of the acquirer + shares tendered / offered by public shareholders = 90% of the total issued shares excluding- <ul style="list-style-type: none">- shares held by custodian(s) against which depository receipts have been issued overseas- shares held by a Trust set up for implementing an Employee Benefit scheme- shares held by inactive shareholders Such shareholders shall be certified by the Peer Review Company Secretary
22. OPTION TO ACCEPT OR REJECT THE DISCOVERED PRICE OR COUNTER OFFER
The acquirer shall be bound to accept the equity shares tendered or offered in the delisting offer, <ul style="list-style-type: none">- if discovered price = floor price/indicative price- at indicative price, if price > floor price but < indicative price Above conditions shall not apply, if discovered price > indicative price If discovered price is not acceptable by acquirer, then counter offer ✓ to public shareholders within 2 working days. The counter offer price > book value of the company book value of the company = computed on the basis of both consolidated and standalone financial statements of the company as per the latest quarterly financial results
23. FAILURE OF OFFER
The delisting = failed if: <ul style="list-style-type: none">a. minimum number of shares are not tendered / offeredb. price discovered through the reverse book building process is rejected by the acquirer. In case of failure- <ul style="list-style-type: none">a. Equity shares tendered/offered shall be released-<ul style="list-style-type: none">- On date of disclosure of outcome of BBP if minimum shares are not tendered/offered- On date of public announcement, price discovered through the reverse book building process is rejected by the acquirer.- As per Schedule IV, if a counter offer has been made by the acquirer

However the acquirer shall not return shares, if made under Takeover Regulations

- b. The expenses = borne by acquirer
- c. The acquirer shall not make new delisting offer until 6 months from date of-
 - disclosure of the outcome of the reverse book building process
 - making public announcement for the failure
 - making public announcement for the failure of counter offerThis clause shall not apply to delisting made by

- a. new promoter(s) pursuant to the re-classification
- b. new acquirer(s) who has made an offer under regulation 5A of Takeover Regulations

24. PAYMENT UPON SUCCESS OF THE OFFER

All public shareholders whose bid is accepted, shall be paid discounted price/higher price-

- Discounted price= floor price/indicative price, the payment shall be made through the secondary market settlement mechanism
- Discounted price > floor price/indicative price, payment = within 5 working days of the public announcement.

If payment = not on time, then acquirer = pay interest of 10% p.a.

However waiver may be granted if reason of delay is justified.

25. FINAL APPLICATION TO THE STOCK EXCHANGE AFTER SUCCESSFUL DELISTING

Within 5 days of payment, the acquirer = make final application to RSE for delisting with all the details.

RSE = dispose of application within 15 working days.

Upon disposal of the final application, ES = permanently delisted

26. RIGHT OF THE REMAINING PUBLIC SHAREHOLDERS TO TENDER EQUITY SHARES

The remaining shareholders whose shares were not tendered/offered = have right to tender their equity shares for a minimum period of one year.

Acquirer = under an obligation to accept such shares

The payment for such ES shall be made out of balance in escrow account

The amount in escrow account = not be released to acquirer, earlier of

- for atleast 1 year
- till the time payment has been made to the remaining public shareholders

27. MEASURES TO PROTECT THE RIGHTS OF REMAINING PUBLIC SHAREHOLDERS

Manager + Acquirer = protect rights of shareholders by-

- publishing an advertisement to invite shareholders to avail exit opportunity upto 1 year
- send follow up communications
- file a quarterly progress report to the stock exchange

28. OBLIGATIONS OF THE COMPANY

Post receipt of DPA, the company shall form in Committee of independent directors to provide reasoned recommendations on the delisting offer. The Committee shall recommend and disclose voting pattern. The Company shall publish recommendation + voting pattern at least two working days before the commencement of the bidding period.

29. OBLIGATIONS OF THE MANAGER TO THE OFFER

Manager shall ensure that all the disclosures, information, dealings and process are in place

30. OBLIGATIONS OF THE ACQUIRER

The acquirer shall ensure provisions of this regulation are complied with.

31. CANCELLATION OF OUTSTANDING DEPOSITORY RECEIPTS

After delisting, company = compulsorily cancel all the outstanding depository receipts and change them into ES within 1 year of delisting.