CAPITAL MARKET AND SECURITIES LAW

VOLUME-1

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MARKS COVERED-50
NO. OF PAGES-105

OVERVIEW OF FINANCIAL SYSTEM
MONEY MARKET
DEPOSITORY
INVESTOR PROTECTION
UNIT OF MUTUAL FUNDS, CIS, AIF
UNIT OF FPI, NCRPS, REIT, INVIT

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OVERVIEW OF FINANCIAL SYSTEM

FINANCIAL SYSTEM AS INTRODUCTION

• Every modern economy is based on a sound financial system which helps in economic growth by encouraging savings habits, mobilising savings from households and allocating savings into productive usage such as trade, commerce, manufacture etc.
• Financial System cover both credit and cash transaction.
• All financial transaction are dealt with by cash payment or issue of negotiable instrument like cheque, bills of exchange etc.
• A financial system is a set of institutional arrangements through which financial surpluses are mobilised from the units generating surplus income and transferring them to the others in need of them. Financial system covers both credit and cash transactions.

FUNCTION OF FINANCIAL SYSTEM

THE FUNCTION OF FINANCIAL SYSTEM AS FOLLOWS:

• Regulation of currency
• Banking functions
• Custody of cash reserves
• Credit control
• Maintaining liquidity.

WHILE LONG TERM GROWTH OF FINANCIAL SYSTEM IS ENSURED THROUGH:

• Education of investors
• Giving autonomy to FIs to become efficient under competition
• Consolidation through mergers
• Facilitating entry of new institutions to add depth to the market
• Minimising regulatory measures and market segmentation.

CONSTITUENTS OF FINANCIAL SYSTEM

VARIOUS COMPONENTS ARE:

• Financial Markets.
• Financial Products /instruments.
• Financial Market Participants /intermediaries.
Financial markets provide channels for allocation of savings to investment. These provide a variety of assets to savers as well as various forms in which the investors can raise funds and thereby decouple the acts of saving and investment.

The financial markets have two major components; the money market and the capital market.

**MONEY MARKET**
The money market refers to the market where borrowers and lenders exchange short-term funds to solve their liquidity needs. Money market instruments are generally financial claims that have low default risk, maturities under one year and high marketability.

**CAPITAL MARKET**
The Capital Market is a market for financial investments that are direct or indirect claims to capital. It is wider than the Securities Market and embraces all forms of lending and borrowing. The capital market and in particular the stock exchange is referred to as the barometer of the economy.

**Some of important Financial Products:**
- Equity share with equal rights
- Equity share with differential rights
- Sweat equity share
- Debenture
- Public deposit
- Treasury bill
- Commercial bills
- Commercial paper
- Certificate of deposit

The securities market has essentially three categories of participants, namely the issuers of securities, investors in securities and the intermediaries.

**There are mainly four types of financial intermediaries and institutions:**
- PFIs
- Banks
- NBFCs
- Insurance organisations.
Introduction:
- Securities Market is a link between investment and savings
- which mobilises and channelizes savings
- which provides liquidity to investors
- which is a market place for purchase and sale of securities.

FUNCTIONS OF SECURITIES MARKET
- The Securities Market provides a linkage between the savings and the investment across the entities, time and space.
- It mobilises savings and channelizes them through securities into preferred enterprises.
- The Securities Market also provides a market place for purchase and sale of securities and thereby ensures transferability of securities, which is the basis for the joint stock enterprise system.
- The existence of the Securities Market makes it possible to satisfy simultaneously the needs of the enterprises for capital and the need of investors for liquidity.

ROLE OF SECURITIES MARKET IN ECONOMIC GROWTH
The securities market fosters economic growth to the extent that it:
- Increases net capital inflow from abroad.
- Raises the productivity of investment by improving allocation of investable funds.
- Reduces the cost of capital
- Augments the quantities of real saving and capital formation from any given level of national income.
- Facilitates the internationalization of an economy by linking it with rest of the world. Inflow of capital in the form of portfolio investment.

REGULATORY FRAMEWORK IN SECURITIES MARKET

FOLLOWING LAWS PLAY IMPORTANT ROLE IN ADMINISTERING SECURITIES MARKET / LAWS.
- SEBI Act, 1992
- Securities Contracts (Regulation) Act, 1956
- Depositories Act, 1996
- Companies Act, 2013

SEBI ACT, 1992
The SEBI Act, 1992 establishes SEBI with statutory powers for
- Protecting the interests of investors in securities,
- Promoting the development of the securities market, and
- Regulating the securities market.
It regulatory jurisdiction extends over corporate in the issuance of capital and transfer of securities, in addition to all intermediaries and persons associated with securities market. It can conduct enquiries, audits and inspection of all concerned and adjudicate offences under the Act. It has powers to register and regulate all market intermediaries and also to penalize them in case of violations of the provisions of the Act, Rules and Regulations made there under. SEBI has full autonomy and authority to regulate and develop an orderly securities market.

SECURITIES CONTRACTS (REGULATION) ACT, 1956:

It provides for direct and indirect control of virtually all aspects of securities trading and the running of stock exchanges and aims to prevent undesirable transactions in securities.

DEPOSITORIES ACT, 1996:

The Depositories Act, 1996 provides for the establishment of depositories in securities with the objective of ensuring free transferability of securities with speed, accuracy and security by
- Making securities of public limited companies freely transferable subject to certain exceptions;
- Dematerializing the securities in the depository mode; and
- Providing for maintenance of ownership records in a book entry form.

COMPANIES ACT, 2013

It deals with issue, allotment and transfer of securities and various aspects relating to company management. It provides for standard of disclosure in public issues of capital, particularly in the fields of company management and projects, information about other listed companies under the same management, and management perception of risk factors It also regulates underwriting, the use of premium and discounts on issues, rights and bonus issues, payment of interest and dividends, supply of annual report and other information.

SEcurities Market Reforms

SEBI has incorporate major policies initiatives to make the market more safer for investors.
- **On line Fully Automated Screen Based Trading System:** Where a member can punch into the computer quantities of securities and the price at which he likes to transact and the transaction is executed as soon as it find perfect match.
- **Securities Market Awareness:** Securities Market Awareness Campaign launched by SEBI which aims at educates the investors about the risk associated with the market and rights and obligation of investors.
- **Depository Act:** Depository is an organisation which holds the securities of investors in electronic form which helps the investor to save time from the time consuming activities.
- **SEBI made ASBA bid-cum application forms available for download and printing, from websites for the National Stock Exchange (NSE).** The ASBA forms so downloaded should have a unique application number and can be used for making ASBA applications in public issues.
Basic Services Demat Account: To encourage holding of demat accounts and to reduce the cost of maintaining securities in demat accounts for retail individual investors, SEBI introduced the concept of basic services demat account (BSDA).

Grading of IPO: Rating is must in all IPOs.

Mandatory requirements of PAN No

Corporate governance: With the introduction of this practice, independent directors and various committees are given a role in the management of the company.

THE INTERNATIONAL ORGANIZATION OF SECURITIES COMMISSIONS (IOSCO)

- The International Organization of Securities Commissions (IOSCO) is recognized as the international standard setter for securities markets.
- Its membership regulates more than 95% of the world's securities markets.
- The securities and Exchange Board of India is also a signatory to IOSCO MMOU.

OBJECTIVE

There are three Objectives of securities regulation:
- Protecting investors
- Ensuring that markets are fair, efficient and transparent.
- Reducing systemic risk
- Promote investor confidence in the integrity of securities markets, through strengthened information exchange and cooperation.

MEMBERSHIP

There are three categories of membership within IOSCO which are designed to the different approaches to securities markets regulation.

The three categories are:
- Ordinary;
- Associate; and
- Affiliate.

ORDINARY

- This category is open to a securities commission, or a similar government body.
- Ordinary members each have one vote in the Presidents Committee, which meets yearly at the Annual Conference.

ASSOCIATE

The following bodies can apply to become associate members for the organization:
- A public regulatory body can become member.
- Any other eligible body with an appropriate responsibility for securities regulation.

Note:- Associate members do not have the right to vote.
AFFILIATE

An international body can apply for membership here. Affiliate members do not have a vote, are not eligible for the IOSCO Board and are not members for the Presidents Committee.

Meaning of MMOU

- **Multilateral Memorandum of Understanding** Concerning Consultation and Co-operation and Exchange of Information (MMOU)
- The MMOU represents a common understanding amongst its signatories about how they will consult, cooperate, and exchange information for securities regulatory enforcement purposes.
- The MMOU itself sets out the specific requirements for what information can be exchanged and how it is to be exchanged:
MONEY MARKET

INTRODUCTION

The money market refers to the market where borrowers and lenders exchange short-term funds to solve their liquidity needs.

Money market instruments are generally financial claims that have low default risk, maturities under one year and high marketability.

Indian money market consists of formal/organised and informal/unorganised segments. The formal/organised market comprises of RBI, various commercial banks, cooperative banks, UTI etc.

Informal/unorganised market consists of chit funds, nidhi's, etc. In the informal segment/unorganised interest rates are much higher than in the organised segment. Money market instruments include treasury bills, commercial bills, certificate of deposit.

MONEY MARKET

IMPORTANCE OF MONEY MARKET

• Development of trade and Industry
• Development of Capital Market.
• Smooth Functionary of Commercial banks.
• Effective Central Bank Control.
• Formulation of suitable Monetary Policy.

CONSTITUENT OF MONEY MARKET

Government is an active player in the money market and in most economies; it constitutes the biggest borrower of this market. Both, Government Securities or G-Sec and Treasury-Bills or T-Bills are securities issued by RBI on behalf of the Government of India to meet the latter are borrowing for financing fiscal deficit. Apart from functioning as a merchant banker to the government, the central bank also regulates the money market and issues guidelines to govern the money market operations.

Another dominant player in the money market is the banking industry. Banks mobilize deposits and utilize the same for credit accommodation.

Moreover, financial institutions also undertake lending and borrowing of short-term funds.

Corporate also transact in the money market mostly to raise short-term funds for meeting their working capital requirements

Other institutional players like mutual funds (MFs), foreign institutional investors (FIIs) etc. also transact in money market.

The volumes are very large and generally transactions are settled on a daily basis. Trading in the money market is conducted over the telephone, followed by written confirmation from both the borrowers and lenders.
FEATURES OF MONEY MARKET

- It is the market for dealing in monetary assets of short-term nature.
- Short-term funds up to one year and financial assets that are close substitutes for money are dealt in the money market.
- Money market instruments have the characteristics of liquidity, minimum transaction cost and no loss in value.
- Funds are available in this market for periods ranging from a single day up to a year.
- Mostly government, banks and financial institutions dominate this market.
- The volumes are very large and generally transactions are settled on a daily basis.

RBI ROLE IN MONEY MARKET

RBI as the residual source of funds in the country plays a key role and holds strategic importance in the money market. RBI is able to expand or contract the liquidity in the market through different instruments such as Statutory Liquidity Ratio (SLR), Current Liquidity Ratio (CLR) etc. Thus RBI policy controls the availability and the cost of credit in the economy.

Both, Government Securities or G-Sec and Treasury-Bills or T-Bills are securities issued by RBI on behalf of the Government of India to meet the latter are borrowing for financing fiscal deficit. Apart from functioning as a merchant banker to the government, the central bank also regulates the money market and issues guidelines to govern the money market operations.

MONEY MARKET VS. CAPITAL MARKET

<table>
<thead>
<tr>
<th>Basis</th>
<th>Money Market</th>
<th>Capital Market</th>
</tr>
</thead>
<tbody>
<tr>
<td>Period</td>
<td>The money market deals in the lending and borrowing of short term finance varying from one year or less</td>
<td>The capital market deals in the lending and borrowing of long term finance for more than one year.</td>
</tr>
</tbody>
</table>
| Credit Instrument | • Call money  
• Treasury Bills  
• Commercial Bills  
• Commercial Paper  
• Bills of exchange | • Stocks  
• Shares  
• Debentures  
• Bonds  
• Corporate Deposits |
| Purpose of loans | Fulfill short term credit need of Business | Fulfill long term credit need of the industrialists |
| Objective       | Provided Working Capital to the industrialists | Provided Fixed Capital to buy land, machinery etc. |
| Risk and Liquidity | Degree of risk is small and liquidity is higher. | Degree of risk is higher and liquidity is lower. |
| Market Regulation | Commercial Banks are closely regulated | The Institutions are not much regulated |
MONEY MARKET INSTRUMENTS

The following are the money market instruments:
- Treasury Bills
- Commercial Paper
- Certificate of Deposits
- Inter Corporate Deposits
- Commercial Bills

TREASURY BILLS

Meaning
- Treasury Bills are money market instruments to finance the short term requirements of the Government of India.
- These are discounted securities as issued at a discount to face value. The return to the investor is the difference between the maturity value and issue price.
- The Treasury Bills are very useful to deploy short term surpluses depending upon the availability and requirements.

TYPES OF TREASURY BILLS

- 14-day T bill: maturity is in 14 days.
- 91-day T bill: maturity is in 91 days.
- 182-day T bill: maturity is in 182 days.
- 364-Day T bill: maturity is in 364 days.

Example
Suppose party A has a surplus cash of `200 crore to be deployed in a project. However, it does not require the funds at one go but requires them at different points of time as detailed below:

Funds Available as on 1.1.2014 `200 crore
Deployment in a project `200 crore
As per the requirements
06.1.2014 `50 crore
13.1.2014 `20 crore
02.2.2014 `30 crore
08.2.2014 `100 crore.
Out of the above funds and the requirement schedule, the party has following two options for effective cash management of funds:

Option I
Invest the cash not required within 15 days in bank deposits
The party can invest a total of `130 crore only, since the balance `70 crores is required within the first 15 days.
Assuming a rate of return of 6% paid on bank deposits for a period of 31 to 45 days, the interest earned by the company works out to `76 lacs approximately.

Option II
Invest in Treasury Bills of various maturities depending on the funds requirements
The party can invest the entire `200 crore in treasury bills as treasury bills of even less than 15 days maturity are also available. The return to the party by this deal works out to around `125 lacs, assuming returns on Treasury Bills in the range of 8% to 9% for the above periods.

### IMPORTANT PROVISIONS OF TREASURY BILL

<table>
<thead>
<tr>
<th>Benefits</th>
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<tbody>
<tr>
<td>• No tax Deducted at source</td>
</tr>
<tr>
<td>• Better return in short term</td>
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<tr>
<td>• Transparency</td>
</tr>
<tr>
<td>• Highly Liquid money market instruments</td>
</tr>
<tr>
<td>• Zero default risk being sovereign paper.</td>
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</tbody>
</table>

### FEATURES

<table>
<thead>
<tr>
<th>Form</th>
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<tr>
<td>It is issued in form of promissory note in physical form or by credit to Subsidiary General Ledger account or Gilt accounts in Dematerialised form.</td>
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<tr>
<th>Minimum Amount of Bids</th>
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<tr>
<td>`25000/- only and in multiples thereof</td>
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<table>
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<tr>
<th>Eligibility</th>
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<tbody>
<tr>
<td>• Banks, Mutual funds</td>
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<tr>
<td>• Financial Institutions , State Government</td>
</tr>
<tr>
<td>• Primary Dealers , Trusts</td>
</tr>
<tr>
<td>• Firms</td>
</tr>
<tr>
<td>• Companies</td>
</tr>
<tr>
<td>• Corporate Bodies</td>
</tr>
<tr>
<td>• Partnership Firms</td>
</tr>
<tr>
<td>• Even Individuals etc.</td>
</tr>
<tr>
<td>CS EXECUTIVE</td>
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<td>---------------</td>
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<tr>
<td><strong>Repayments</strong></td>
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<tr>
<td><strong>Availability</strong></td>
</tr>
<tr>
<td><strong>Features in Dealing in Primary Market</strong></td>
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<td><strong>Features of Secondary Market</strong></td>
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<tr>
<td><strong>Day count</strong></td>
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<td><strong>Yield Calculation</strong></td>
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**Practical Question 1:**
A cooperative bank wishes to buy 91 Days Treasury bill Maturing on Dec. 6, 2006 on Oct. 12, 2006. The rate quoted by seller is `99.1489 per `100 face values. The YTM can be calculated as following:

\[ \text{YTM} = \frac{(100-99.1489) \times 365 \times 100}{99.1489 \times 55} = 5.70\% \]

Similarly if the YTM is quoted by the seller price can be calculated by inputting the price in above formula.

**TYPES OF AUCTION**

There are two types of auction for treasury bills:

- **Multiple Price Based or French Auction:** Under this method, all bids equal to or above the cut-off price are accepted. However, the bidder has to obtain the treasury bills at the price quoted by him. This method is followed in the case of 364 days treasury bills and is valid only for competitive bidders.

- **Uniform Price Based or Dutch Auction:** Under this system, all the bids equal to or above the cut-off price are accepted at the cut-off level. However, unlike the Multiple Price based method, the bidder obtains the treasury bills at the cut-off price and not the price quoted by him. This method is applicable in the case of 91 days treasury bills only. The system of Dutch auction has been done away with by the RBI w.e.f 08.12.2002 for the 91 day treasury T Bill.

**What is Dutch auction?**
When all the bids accepted are equal to or above the cut off price are accepted at cut-off level it is known as Dutch Auction.

**What is French Auction?**
When all the bids accepted above cut-off price, it is known as French Auction.
COMMERCIAL PAPER (C.P)

Meaning
A Commercial paper is

- A unsecured Money Market Instrument
- Issued by large banks and Corporations
- To Gain money from the market
- To meet short term needs

ROLE AND RESPONSIBILITIES OF ISSUER, IPA AND CRA IN ISSUANCE OF C.P

Issuer: With the simplification in the procedure for CP, issuer would have more flexibility. Issuer has to ensure that the guidelines and procedures laid down in CP are strictly adhered to.

IPA: Only a Schedule Bank can act as an IPA:

- IPA would ensure that issuer has the minimum credit rating by CRA.
- IPA has verified all the documents submitted by the issuer.

CRA

- Code of Conduct prescribed by the SEBI for CRAs for undertaking rating.
- Further, the credit rating agency would determine the validity period of the rating.

SOME IMPORTANT PROVISION OF COMMERCIAL PAPER

<table>
<thead>
<tr>
<th>When and why it Was introduced</th>
<th>It was introduced in India in 1990</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>It was aimed at providing highly rated corporate with a borrowing option.</td>
</tr>
<tr>
<td></td>
<td>The CP is used to borrow directly from the market; the rate of interest is lesser as compare to the banks.</td>
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</table>

<table>
<thead>
<tr>
<th>Who can invest in CP</th>
<th>Individuals</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Banking Companies</td>
</tr>
<tr>
<td></td>
<td>Non-Resident Indians</td>
</tr>
<tr>
<td></td>
<td>Foreign Institutional Investor.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Who is eligible to issue CPs</th>
<th>Corporate</th>
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<tbody>
<tr>
<td></td>
<td>Financial Institutions</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Eligibility for issue of CP</th>
<th>The tangible net worth of the company as per latest audited balance sheet is not less than ` 4 crore</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>The company has been sanctioned working capital limit by banks or FIs.</td>
</tr>
<tr>
<td></td>
<td>The borrower account of the company is classified as a standard asset by the financing banks.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Rating Maturity</th>
<th>It shall obtain credit rating from one of the following Credit Rating Agency.</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Minimum of 7 Days and max. Of one year from the date of issue.</td>
</tr>
<tr>
<td></td>
<td>Minimum amount invested by single investor</td>
</tr>
<tr>
<td></td>
<td>` 5 Lakh or multiples thereof</td>
</tr>
</tbody>
</table>
CERTIFICATE OF DEPOSITS

MEANING | Certificates of Deposit (CDs) are a negotiable money market instrument.
--- | ---
Form of Issue | Issued in dematerialised form or as a Promissory Note, for funds deposited at a bank or financial institution for a specified time period.
Eligibility | • Scheduled commercial banks excluding Regional Rural Banks (RRBs) and Local Area Banks (LABs); and • All-India Financial Institutions that have been permitted by RBI to raise short-term resources within the umbrella limit fixed by RBI.
Who can invest in CDs | • Individuals • Corporations • Companies • Funds
Amount of CDs allowed to be issued by | The amount of CDs allowed to be issued by:- • Must not exceeding 100 % of its net owned funds as per latest audited balance sheet as per guideline issued by RBI.
Min. Amount | `1 lack and in the multiples of `1 lack thereafter.
Maturity Period | • Banks can issue CDs shall not be less than 15 days and not more than 1 year. • The FIs can issue CDs for a period not less than 1 year and not exceeding 3 years from the date of issue.
Discount Rate | • The Banks/FI may issue CDs at a discount rate on face value.
Other main Features | • Physical CDs are freely transferable by endorsement and delivery • Demat CDs can be transferred as per procedure • There is no lock in period • Banks/FI cannot grant loan against CDs • Cannot buy back their own CDs before maturity.
Mode of CDs | • Banks/FI should issue CDs in Dematerialised form or in physical form. • CDs will attract stamp duty.

INTER CORPORATE DEPOSITS

Meaning
• An unsecured loan extended by one corporate to another.
• The ICD allows corporate with surplus funds to lend to other corporate facing shortage of funds.
• The better rated corporate can borrow from the banking system and lend the money in ICD market to make speculative profits.
• Costs of funds for a corporate in much higher than that of a bank thus the rate in this market are higher than those in other market.
• Risk is high as it is unsecured loan.
• The ICD market is unorganised market with very less information available in public

COMMERCIAL BILLS

Meaning
• Commercial bills are basically negotiable instruments accepted by buyers for goods or services obtained by them on credit.
• Such bills being bills of exchange can be kept up to the due date and enchased by the seller or may be endorsed to a third party in payment of dues owing to the latter.
• But the most common method 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.

FACTORIZATION

Meaning:
• Factoring is the conversion of credit sales into cash
• Factoring is an financial transaction where an entity sells its receivables to a thirty party called factor at a discounted prices.

PARTIES INVOLVED IN FACTORING

SELLER
who produced the good and service and raised the invoice

BUYER
the consumer of good and service and the party to pay

FACTORY
the financial institution that advances the portion of funds to the seller

TYPE OF FACTORING

Non-Recourse or full factoring: The bank takes all the risk and bear all the loss in case of debts becoming bad debts.

Recourse Factoring: Banks purchase the receivables on the condition that any loss arising out or bad debt will be borne by the company which has taken factoring.

Maturity Factoring: Banks does not give any advance to the company rather bank collects it from customers and pay to the company either on the date of collection from the customer or on a guaranteed payment date.

Advance Factoring: The factor provides advances against the uncollected and non-due receivables to the firm.
**Undisclosed Factoring:** In this customer is not informed of the factoring agreement. The firm may collect dues from the customer on its own or instruct to make remit once at some other address.

**Invoice Factoring:** The banks provide an advances to the company against the account receivables and in turn charges interest rate from the company for the payment which bank has given to the company.

**PROCESS OF FACTORING**

**BILLS REDISCOUNTING** :-Bill rediscouting is a money market instrument where the bank buys the bills like bill of exchange or Promissory Note before it is due and credits the value of a bill after a discount charge to the customer's account. Now the bank which has discounted the bill may require getting it rediscouted with some other bank to get the fund.
<table>
<thead>
<tr>
<th>Term</th>
<th>Description</th>
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<tbody>
<tr>
<td>CRR</td>
<td>Cash reserve ratio is the cash parked by the banks in their specified current account maintained with RBI.</td>
</tr>
<tr>
<td>DFHI</td>
<td>The Discount and Finance House of India Limited (DFHI) has been set up by the Reserve bank of India jointly with public sector banks and all India Financial Institutions to deal in short term money market instruments.</td>
</tr>
<tr>
<td>FIMMDA</td>
<td>The Fixed Income Money Market and Derivatives Association of India (FIMMDA), an association of Scheduled Commercial Banks, Public Financial Institutions, Primary Dealers and Insurance Companies was incorporated as a Company under section 25 of the Companies Act, 1956 on June 3rd, 1998. FIMMDA is a voluntary market body for the bond, money and derivatives markets.</td>
</tr>
<tr>
<td>Negotiated Dealing System (NDS)</td>
<td>An electronic trading platform, operated by the Reserve Bank of India, used to Facilitate the exchange of government securities and other money market instruments. The negotiated dealing system will also be responsible for hosting new issues of government securities.</td>
</tr>
<tr>
<td>Online Returns Filing System (ORFS)</td>
<td>It is a single window return submission system for submission of certain important returns by Commercial Bank to the Reserve Bank of India</td>
</tr>
<tr>
<td>Repo rate</td>
<td>The rate at which the RBI lends money to commercial banks is called repo rate. It is an instrument of monetary policy. Whenever banks have any shortage of funds they can borrow from the RBI.</td>
</tr>
</tbody>
</table>
INTRODUCTION

Depositories gave a new dimension and a new scope for conducting transactions in capital market-primary as well as secondary, in a more efficient and effective manner, in a paperless form on an electronic book entry basis. It provided electronic solution to the problems of bad deliveries and long settlement cycles. The main objective of a Depository is to minimize the paper work involved with the ownership, trading and transfer of securities.

Depositories Act, 1996 and SEBI (Depositories and Participants) Regulations, 1996 provide the regulatory framework for the depositories.

DEPOSITORY-MEANING

A Depository is an organization like a Central Bank where the securities of a shareholder are held in the electronic form at the request of the shareholder through the medium of a Depository Participant.

According to Section 2(e) of the 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 Securities and Exchange Board of India Act, 1992”.

There are two Depositories functioning in India, namely the National Securities Depository Limited (NSDL) and the Central Depository Services (India) Limited (CDSL).

A depository cannot act as a depository unless it obtains a certificate of commencement of business form SEBI.

DEPOSITORY PARTICIPANT (DP)-MEANING

Just as a brokers act an agent of the investor at the Stock Exchange; a Depository Participant (DP) is the representative (agent) of the Depository in the depository system providing the link between the Company and investor through the Depository.

According to SEBI guidelines, Financial Institutions like banks, custodians, stockbrokers etc. can become participants in the depository.

The followings are the features of D.P.

- Acts as an Agent of Depository.
- Customer interface of Depository.
- Functions like Securities Bank.
- Account opening.
- Facilitates dematerialization.
- Credits to investor in IPO, rights, bonus Settles trades in electronic segment.
DEPOSITORY- LEGAL FRAMEWORK

The legal framework for a depository system has been laid down by the Depositories Act, 1996 and is regulated by SEBI.

Anybody to be eligible for providing depository services must be formed and registered as a company under the Companies Act, 2013 and seek registration with SEBI and obtain a Certificate of Commencement of Business from SEBI on fulfilment of the prescribed conditions. The companies issuing securities are also required to enter into an agreement with the Depository.

OBJECTIVES OF DEPOSITORIES ACT, 1996

• To conduct the task of maintenance of ownership records of securities and effect changes in ownership records through book entry
• Dematerilisation of securities in the depositaries mode as well as giving option to an investor to choose between holding securities in physical mode and holding securities in a dematerialized form in a depository.
• Making the shares, debentures and any interest thereon of a public limited company freely transferable; and
• Exempting all transfers of shares within a depository from stamp duty.

ELIGIBILITY CONDITION FOR DEPOSITORY

Any company or other institution to be eligible to provide depository services must:

• Be formed and registered as a company under the Companies Act, 2013.
• Be registered with SEBI as a depository under SEBI Act, 1992.
• Has framed by-laws with the previous approval of SEBI.
• Have one or more participants to render depository services on its behalf.
• Complies with Depositories Act, 1996 and SEBI (Depositories and Participants) Regulations, 1996.

BYE-LAWS OF A DEPOSITORY

Depository is required to frame its bye-laws with the prior approval of SEBI, consistent with the provisions of the Act and the regulations made by SEBI there under. SEBI has, however, the revoke any bye-laws already made, wherever it considers expedient to do so.

CONTENTS OF THE BYE-LAWS

The bye-laws of a depository would include:

• The eligibility criteria for admission and removal of securities in the depository.
• The conditions subject to which the securities shall be dealt with.
• The eligibility criteria for admission of any person as a participant.
• The manner and procedure for dematerialisation of securities.
• The procedure for ensuring safeguards to protect the interests of participants and beneficial owners.
The conditions of admission into and withdrawal from a participant by a beneficial owner.

Q. Is there a difference between Depository System and Banking System?

The Depository System functions very much like the banking system.

1. A bank holds funds in accounts whereas a Depository holds securities in accounts for its clients.
2. A bank transfers funds between accounts whereas a Depository transfers securities between accounts.
3. In both systems, the transfer of funds or securities happens without the actual handling of funds or securities. Both the Banks and the Depository are accountable for the safe keeping of funds and securities respectively.
4. In the depository system, share certificates belonging to the investors are to be dematerialized and their names are required to be entered in the records of depository as beneficial owners.

BENEFITS OF DEPOSITORY SYSTEM

- Elimination of bad deliveries i.e. blank transfer
- Elimination of all risks associated with physical certificates
- Immediate transfer and registration of securities
- Faster disbursement of non-cash corporate benefits like rights, bonus, etc.
- Reduction in brokerage by many brokers for trading in dematerialized securities

DIFFERENCE BETWEEN DEPOSITORY AND CUSTODIAN

Both depository and custodial services are responsible for safe keeping of securities but they are different in the sense that the Depository can legally transfer beneficial ownership, which a custodian cannot.

The main objective of a Depository is to minimize the paper work involved with the ownership, trading and transfer of securities.

DEPOSITORY-SERVICES

Under the provisions of the Depositories Act, these Depositories provide various services to investors and other Participants in the capital market.

These include basic facilities like:-

account opening, dematerialisation, re-materialisation, settlement of trades and advanced facilities like pledging, distribution of non-cash corporate actions, distribution of securities to allottees in case of public issues, etc.
Dematerialisation is a process by which the physical share is converted into electronic shares at the request of the investor.

Dematerialisation of shares is optional and an investor can still hold shares in physical form.

DEPOSITORY FUNCTIONS

- Accounts opening
- Dematerialization
- Rematerialization
- Settlement
- Initial Public Offers (IPO's), corporate benefits
- Pledging

DEMATERIALISATION PROCESS

- Investor opens account with DP
- Fills Dematerialisation Request Form (DRF) for registered shares
- Investor lodges DRF and certificates with DP
- DP intimates the Depository
- Depository intimates Registrar/Issuer
- DP sends certificates and DRF to Registrar/Issuer
- Registrar/Issuer confirms demat to Depository
- Depository credits investor a/c
Rematerialisation is a process by which the electronic share is converted back into physical shares at the request of the investor.

**RENEWAL PROCESS**

Client submits Rematerialisation Request Form (RRF) to DP

- DP intimates Depository
- Depository intimates the Registrar/Issuer
- DP sends RRF to the Registrar/Issuer
- Registrar/Issuer prints certificates and sends to Investor
- Registrar/Issuer confirms remat to Depository
- Investor’s account with DP debited

**MODELS OF DEPOSITORY**

**A. IMMOBILISATION:**

Immobilisation takes place when physical share certificates are kept 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.

**B. DEMATERIALISATION:**

No physical scrip in existence, only electronic records maintained by depository......

(Remaining discussed earlier).

**PLEDGE OR HYPOTHECATION OF SECURITIES HELD IN A DEPOSITORY**

A beneficial owner may with the previous approval of the depository create a pledge or hypothecation in respect of a security owned by him through a depository. Every beneficial owner should give intimation of such pledge or hypothecation to the depository participant 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.

**RIGHTS OF DEPOSITORIES AND BENEFICIAL OWNER**

A depository should be deemed to be the registered owner for the purposes of effecting transfer of ownership of security on behalf of a beneficial owner.

The depository as a registered owner **should not have any voting rights or any other rights** in respect of securities held by it.
The beneficial owner is entitled to all the rights and benefits and subjected to all the liabilities in respect of his securities held by a depository.

**REGISTER OF BENEFICIAL OWNER (SECTION 11)**

Every depository is required to maintain a register and an index of beneficial owners in the manner provided in the Companies Act.

**AUDIT UNDER SEBI (DEPOSITORIES AND PARTICIPANTS) REGULATIONS, 1996**

Regulation 55A of SEBI (Depositories and Participants) Regulations, 1996 provides that every issuer shall submit audit report on a quarterly basis to the concerned stock exchanges audited by a practicing Company Secretary or a qualified Chartered Accountant.

The purposes of such audit:-

- reconciliation of the total issued capital,
- reconciliation of listed capital and
- reconciliation of 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.

The audit report is required to give the updated status of the register of members of the issuer and confirm that securities have been dematerialized as per requests within 21 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 would disclose the reasons for such delay.

**INTERNAL AUDIT OF OPERATIONS OF DEPOSITORY PARTICIPANTS**

The two Depository service providers in India, viz., National Securities Depository Ltd. (NSDL) and Central Depository Services (India) Limited (CDSL) have allowed Practicing Company Secretaries to undertake internal audit of the operations of Depository Participants (DPs).

Every Depository Participant shall ensure that an internal audit in respect of the operations of the Depository is conducted at intervals of not more than three months by a qualified Chartered Accountant or a Company Secretary holding a certificate of Practice and a copy of the internal audit report shall be furnished to the Depository.”

**CONCURRENT AUDIT**

 Depository Participants are subject to concurrent audit by a Practicing Company Secretary or qualified Chartered Accountant.

**Concurrent Audit includes**

- audit of process of demat account opening,
- control and verification of delivery instruction slips.
However, the participants in case they so desire, may entrust the concurrent audit to their Internal Auditors.

**DESIGNATED DEPOSITORY PARTICIPANTS**

A Depository Participant that has taken approval form/registered with SEBI to offer services to Qualified Foreign Investor (QFI) is called Designated Depository Participant (DDP).

**ELIGIBILITY CRITERIA**

To become a, a SEBI registered DP shall fulfill the following:

- DP shall have net worth of ₹50 crore or more.
- DP shall be a clearing bank or clearing member of any of the clearing corporations.
- DP shall comply with the FATF Standards, Prevention of Money Laundering (PML) Act, Rules and SEBI circulars, and
- DP shall obtain prior approval of SEBI before commencing the activities relating to QFI.

**ROLE AND RESPONSIBILITIES OF DDP**

- In case of any violations by QFI, a DDP is obliged to bring such instances to the notice of concerned depository and SEBI.
- The DDP shall deal with its QFI clients in a fair and impartial manner.
- The DDP shall obtain appropriate declarations to the depositories, STOCK EXCHANGE and SEBI.
- The DDP shall report QFI holdings to the depositories, STOCK EXCHANGE and SEBI.
BASIC SERVICES DEMAT ACCOUNT (BSDA)

SEBI introduced the concept of Basic Services Demat Account (BSDA), to achieve:
- wider financial inclusion,
- encourage holding of demat accounts and
- to reduce the cost of maintaining securities in demat accounts for retail individual investors.

Eligible Investor would be an individual who will invest not be more than `2 lakh at any given point of time. However, Investors can open only one BSDA across all D.P.

The Annual Maintenance Charges (AMC) which will have to pay for BSDA will be as per predetermined slabs.

a) If the value of holdings is up to `50,000 there won't be any annual maintenance charge.
b) If the value of holding is in between `50,001 to `200,000, a free of `100 as AMC may be charged
c) If the value of holdings exceeds, DPs are permitted to charge the same as they charge non-BSDA regular demat accounts.

D.P generate two statement for BSDA holders

- Transaction statements:
  a) Transaction statements shall be sent to the BO at the end of each quarter. If there are no transactions in any quarter, no transaction statement may be sent for that quarter.
  b) If there are no transactions and no security balance in an account, then no further transaction statement needs to be provided.
  c) Transaction statement shall be required to be provided for the quarter in which the account became a zero balance account.

- Holding Statement:
  a) One annual physical statement of holding shall be sent to the stated address of the BO in respect of accounts with no transaction and nil balance.

SELF-TEST QUESTIONS

Q.1 Briefly outline the concept of depository system in India.

Q.2 Explain in detail the power of depositories to make bye-laws under the Depositories Act, 1996.

Q.3 Briefly explain the role and responsibilities of a Qualified Depository Participant.

Q.4 Explain in detail the Statement required to be sent to the beneficial owner by a DP under BSDA facility.
**INVESTOR PROTECTION**

**Investor protection** means to protect the investors from being cheated, deceived or being put to loss by the companies.

**RIGHTS OF SHAREHOLDERS/INVESTORS**

Since the shareholders furnish the funds and bear the risk, they have been given certain rights, both in their individual capacity and as a group. It is as a group, when attending general meetings of the company, that shareholders enjoy the privilege of exercising control over the policy in relation to the working of the company.

<table>
<thead>
<tr>
<th>INDIVIDUAL RIGHTS:</th>
<th>GROUP RIGHTS:--</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>The individual rights of a shareholder include the right to:</strong></td>
<td><strong>The law requires that the following things to be done only with the consent of the shareholders in a meeting:</strong></td>
</tr>
<tr>
<td>(i) Receive notice of general meetings of the company and to attend those meetings and vote at Them either in person or by proxy;</td>
<td>(a) Commencement of any new business (as stated in the memorandum under ‘other objects’).</td>
</tr>
<tr>
<td>(ii) Receive dividends, when declared;</td>
<td>(b) sale, lease or disposal of the whole, or substantially the whole of the undertaking of the company;</td>
</tr>
<tr>
<td>• Transfer his shares, subject to restrictions, if any, imposed by the articles;</td>
<td>(c) remission of, or granting time for, the repayment of any debt due by a director;</td>
</tr>
<tr>
<td>• Inspect registers and records of the company and obtain extracts;</td>
<td>(d) investment of any compensation received by the company for the compulsory acquisition of its undertaking (such consent is not required if the investment is made in trust securities);</td>
</tr>
<tr>
<td>• Apply to the Court to have any variation or abrogation of his rights set aside by the Court;</td>
<td>(e) borrowing of moneys in excess of the aggregate paid-up capital and its free reserves;</td>
</tr>
<tr>
<td>• Share in the assets of the company on its dissolution.</td>
<td>(f) appointment of sole selling agents by the Board;</td>
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<tr>
<td></td>
<td>(g) issue of bonus shares;</td>
</tr>
<tr>
<td></td>
<td>(h) reorganisation of the capital;</td>
</tr>
<tr>
<td></td>
<td>(i) amendment of the memorandum and articles;</td>
</tr>
<tr>
<td></td>
<td>(j) Voluntary winding up of the company.</td>
</tr>
</tbody>
</table>

**RESPONSIBILITIES OF AN INVESTOR AS A DEBENTURE**

**RIGHTS OF AN INVESTER AS A DEBENTURE**
<table>
<thead>
<tr>
<th>SECURITY HOLDER</th>
<th>HOLDERS</th>
</tr>
</thead>
<tbody>
<tr>
<td>(a) To be specific</td>
<td>- To receive interest on redemption of debentures in due time.</td>
</tr>
<tr>
<td>(b) To remain informed</td>
<td>- To receive a copy of the trust deed on request.</td>
</tr>
<tr>
<td>(c) To be vigilant</td>
<td>- To apply for winding up of the company if the company fails to pay its debt.</td>
</tr>
<tr>
<td>(d) To participate and vote in general meetings</td>
<td>- To approach the Debenture Trustee with your grievance.</td>
</tr>
<tr>
<td>(e) To exercise your rights on your own or as a group.</td>
<td></td>
</tr>
<tr>
<td></td>
<td>- To receive a copy of the trust deed on request.</td>
</tr>
<tr>
<td></td>
<td>- To apply for winding up of the company if the company fails to pay its debt.</td>
</tr>
<tr>
<td></td>
<td>- To approach the Debenture Trustee with your grievance.</td>
</tr>
</tbody>
</table>

**COMMON GRIEVANCES OF INVESTORS**

The general grievances the investors have against companies can be listed as under:-

(a) Furnishing inadequate information or making misrepresentation in prospectus, application forms, advertisements and rights offer documents.
(b) Delay/non-receipt of refund orders, allotment letters and share certificates/debenture certificates/bonds.
(c) Delay/non-receipt of share certificates/debenture certificates.
(d) Delay in listing of securities with stock exchanges.
(e) Delay/non-receipt of bonus shares/right shares.
(f) Delay/non-receipt of notices for meetings/annual reports.
(g) Delay/non-receipt of interest warrants and dividend warrants.
(h) Obtaining undue benefits by company insiders.
(i) Delay/default in payment of interest and repayment of deposits.

In respect of each of the above grievances complaints can be lodged with the Registrar of Companies, stock exchanges or SEBI as the case may be and in certain cases, they can be pursued with the NCLT also to obtain remedies and relief.
The following table indicates nature of investors’ grievances and the authorities to be approached:-

### TYPES OF GRIEVANCES AND DEALING AUTHORITY

<table>
<thead>
<tr>
<th>Grievances pertaining to</th>
<th>Regulator</th>
</tr>
</thead>
<tbody>
<tr>
<td>Banks deposits and banking</td>
<td>Reserve Bank of India (RBI)</td>
</tr>
<tr>
<td>Fixed Deposits with Non Banking Financial Companies (NBFCs) and other matters pertaining to NBFCs Primary Dealers</td>
<td>Ministry of Corporate Affairs (MCA)</td>
</tr>
<tr>
<td>Fixed Deposits with manufacturing companies</td>
<td></td>
</tr>
<tr>
<td>Unlisted companies Mismanagement of companies, financial performance of the company, Annual General Meeting, Annual Report, minority shareholders interest, non-receipt of preferential allotment shares, etc. and corporate actions as per the court order such as mergers, amalgamation, reduction of share capital/par value, etc. Nidhi Companies</td>
<td></td>
</tr>
<tr>
<td>Insurance Companies/Brokers /Agents/products and Service</td>
<td>Insurance Regulatory and Development Authority India (IRDA)</td>
</tr>
<tr>
<td>Commodity</td>
<td>Forward Markets Commission (FMC)</td>
</tr>
<tr>
<td>Pension fund</td>
<td>Pension Fund Regulatory and Development Authority (PFRDA)</td>
</tr>
<tr>
<td>Monopoly and anti competitive practices</td>
<td>Competition Commission of India (CCI)</td>
</tr>
<tr>
<td>Chit Funds</td>
<td>Registrars of Chit Funds of the concerned State.</td>
</tr>
<tr>
<td>Housing Finance Companies</td>
<td>National Housing Bank (NHB)</td>
</tr>
</tbody>
</table>

Investor Information Centres have been set up in every recognised stock exchange which takes up all complaints regarding the trades affected in the exchange and the relevant member of the exchange.

Moreover two other avenues are always available to the investors to seek redressal of their complaints:

(a) Complaints with Consumers Disputes Redressal Forum.
(b) Suits in the Court of Law.
Investors who are not satisfied with the response to their grievances received from the brokers/Depository Participants/listed companies can lodge their grievances with the Stock Exchanges or Depositories. The grievance can be lodged at any of the offices of the BSE/NSE located at Chennai, Mumbai, Kolkata and New Delhi.

In case of unsatisfactory redressal, BSE/NSE has designated Investor Grievance Redressal Committees (IGRCs), or Regional Investor Complaints Resolution Committees (RICRC), this forum acts as a mediator to resolve the claims, disputes and differences between entities and complainants.

**Grievance redressal mechanism at stock exchange**

**Investor Services Cell (ISC) of Stock Exchanges (SE)/Depositories sent through SCORES or directly by the investors**

Stock exchanges have been advised to redress the complaint within 15 days.

**Investor Grievance Redressal Committee (IGRC)**

If not satisfied, Approach Depository/Investor Grievance Redressal Committee (IGRC) of SEs. The complaints not redressed through ISCs also get referred to IGRCs.

15 days to amicably resolve the investor complaint if not, IGRC to ascertain the value of the claim admissible to the investor and the amount is blocked in IPF

Member given 7 days from the date of IGRC to

If NO then,

Stock exchange releases the amount to the investor

If yes then,

Stock exchange releases 50% of the admissible value or 0.75 lac whichever is less is given to the investor from IPF
Undertaking given by the investors to stock exchange to return the amount released to him, in case the proceeding are decided against the investors

Total amount released to the investors through monetary relief shall no exceed Rs 5 lac, in one financial year.

In case of non-payment of the amount by the investor, trading not allowed on any stock exchange and demat account shall be frozen.

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**Arbitration**

It’s the quasi-judicial process of settlement of dispute, if one party feels that satisfactory redressal of grievance has not taken place at IGRCs

If arbitration is in the favour of investor and the member decides to make application in appellate arbitrator panel, then the positive difference of the following is paid from IPF of the exchange

(A) 50% of the amount mentioned in the arbitration award or 1.5 lacs which is less and

(B) Amount already released to the investor earlier

---

**Appellate Arbitrator Panel**

If arbitration is in the favour of investor and the member decides to make application if next higher court, then the positive difference of the following is paid from IPF of the exchange

(A) 75% of the amount mentioned in the appellate award or 2 lacs which is less and

(B) Amount already released to the investor earlier
What is Arbitration

- Arbitration is a quasi judicial process of settlement of disputes between investors and trading members (brokers)/sub-brokers or within brokers themselves. It aims at quicker legal resolution of disputes for all the transactions done on the exchange. The arbitration framework is governed by rules byelaws, circulars and regulations issued by the exchange and SEBI from time to time.

Important points to remember in arbitration

- The complaint in the other systems shall be treated as closed, once arbitration proceeding are initiated since it is quasi judicial process.
- Arbitrator application to be filed within three years from incidence. (Law of limitation)
- Choice of selecting arbitrator(s) from the common cool of arbitrators of all the exchanges together; or else system generated.
- A panel of three arbitrators, if the value of claim is > 25 lakh; and sole arbitrator if < 25 lakhs.
- No deposit fees for claims upto to 10 lakhs for the investor
- Appeal within 30 days to the Appellate Arbitrators panel
- Filing of petition in the competent court nearest to the investor’s residence.
- The fees for appeal shall not exceed Rs. 10,000/-, in addition to statutory charges if the claim/counter claim is upto 10 lakh.

For more details, visit ‘investor’ section of exchange/depositories websites.
The legislations as well as the rules and regulations notified there under specify disclosure requirements to be complied with by the companies and also punishments and remedies for failure of compliance.

### 1. COMPANIES ACT, 2013

- **Acceptance of Deposits**
  
  Section 73 - This section provides that no Company shall accept or review deposit under this Act from the public except in a manner provided under Chapter V (Acceptance of Deposits by Companies) of Companies Act, 2013 and Companies (Acceptance of Deposits) Rules, 2014 made there under.

  Sub-section 3 of section 74 lays down that if a company fails to repay the deposit or part thereof or any interest thereon within the time specified under section 74. Then

  **Penalty on them:-**

  **Company** - Not less than 1cr. But which may extend 10 cr.  
  **Every officer** - shall be punishable with imprisonment which may extent to 7 years or with fine which shall not be less than 25 lakh rupees but which may extend to 2 crore rupees, or with both.

  Eligible company inviting deposits or any other person contravenes any provisions of rule 21 of Companies (Acceptance of Deposits) Rules, 2014, for which no punishment is provided in the act, the company and every officer of the company who is in default shall be punishable with fine which may extend to five thousand rupees and where the contravention is a continuing one, with a further fine which may extend to five thousand rupees for every day after the first day during which the contraventions continue.

- **Mis-statements in Prospectus**

  Section 34 deals with criminal liability for mis-statement in prospectus issued by a company.

  Every person who authorizes the issue of such prospectus shall be liable for action under section 447.

  **Section 447:** Any person who is found to be guilty of fraud, shall be punishable  
  **Imprisonment** - shall not be less than six months but may extend to ten years.  
  **Fine** – shall not be less than the amount involved in the fraud, but which may extend to three times the amount involved in the fraud.

- **Fraudulently inducing persons to invest money**

  Section 36: Any person who, either knowingly or recklessly makes any statement, promise or forecast which is false, deceptive or misleading, to induce another person to enter into any agreement the purpose or the pretended purpose of which is to secure a profit,

  Shall be liable for action under section 447
• **Personating for acquisitions, etc. of securities**

Section 38: Any person who –
(a) makes or abets making an application in a fictitious name to a company for acquiring,
(b) makes or abets making of multiple applications to the company in different names, subscribing for its securities
(c) otherwise induces directly or indirectly a company to allot, to any other person in a fictitious name,

Shall be liable for action under section 447

• **Non-payment of Dividend**

Section 124: This section provides that where a dividend has been declared by a company which has not been paid or claimed within 30 days from the date of such declaration, the company shall within 7 days of expiry of the said period of 30 days transfer the total amount of dividend which remains unpaid or unclaimed to a special account to be opened by a company in this behalf in any scheduled bank to be called the unpaid dividend account.

Section 124: Then this section provide penalty for non complying with the above requirement and the same by way of interest @ 12% per annum

Further, if a company fails to comply with any of the requirements of Section 124, the company shall be punishable with fine which shall not be less than five lakh rupees but which may extend to twenty five lakh rupees and every officer of the company who is in default shall be punishable with fine which shall not be less than one lakh rupees but which may extend to five lakh rupees.

• **Transfers and Transmission of Securities**

Regarding transfers and transmissions of securities necessary provisions are available in Section 56, 58, 59 of the Companies Act, 2013. Failure to comply with the provisions of Companies Act, 2013 can be brought before the Tribunal through an appeal under Section 58 and 59. After hearing the parties the Tribunal may by order direct the company to register the transfer.

• **Failure to Send Financial Statements**

Section 136: This section provides for the right of a member to obtain copies of balance sheet and auditors report.

Sub-section 3 provides that in case of default complying with this requirement, the company shall be liable for a penalty of twenty five thousand rupees and every officer who is in default shall be liable to a penalty of five thousand rupees.

• **Protection to Debenture holders**

Section 71 of the Companies Act, 2013 protects the debenture holders and contains stringent penalties for default and also empowers the debenture trustee to makes an appeal to the Tribunal.
2. SEBI ACT, 1992

Basic purpose of SEBI act, 1992 is
- Protect the interest of investors
- Promote the development of and
- To regulate the securities market.

If company or any other person fails to comply with section 15A to section 15HA then pay penalty of section 24.

Section 24 provides for punishment with imprisonment upto 10 years or with fine which may extend to rs. 25 crores or with both

3. SECURITIES CONTRACTS (REGULATION) ACT, 1956

If company or any other person contravention the SCRA, 1956

Section 23 provides for penalties which may extend to 10 years or with fine which may extend to ` 25 crores or with both for contravention of the provisions of the Act.

4. RESERVE BANK OF INDIA ACT, 1938

Section 45 QA of the Reserve Bank of India Act gives a depositor similar rights as are provided under Companies Act to approach CLB for payment of matured deposits in the case of NBFCs.

5. INDIAN PENAL CODE

Economic Offence Wings of the Police Departments have powers under IPC to take up the cases of cheating, forgery and misappropriation etc. relating to investments.

Stock exchanges can also take up the issues pertaining to securities in terms of the conditions of listing agreement, rules and regulations.

INVESTOR EDUCATION AND PROTECTION FUND

Investor Education and Protection Fund (IEPF) has been established under Section 125 of the Companies Act, 2013, for promotion of investors’ awareness and protection of the interests of investors.

Sub-section (5) of section 125 provides that the Central Government shall constitute, an authority for administration of the fund consisting of a chairperson and such other members, not exceeding seven and a chief executive officer, as the Central Government may appoint.

SEBI (INVESTOR PROTECTION AND EDUCATION FUND) REGULATIONS, 2009

The amounts to be credited to the Fund. The following amounts shall be credited to the Fund:

(a) contribution as may be made by SEBI to the Fund;
(b) grants and donations given to the Fund by the Central Government, State Government
(c) proceeds in accordance with regulation 21 of SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 2011;
(d) security deposits, if any, held by stock exchanges in respect of public issues and rights issues,
(e) amounts forfeited for non-fulfillment of obligations specified in regulation 15B of the SEBI (Buy-back of Securities) Regulations, 1998;
(f) interest or other income received out of any investments made from the Fund;
(g) such other amount as SEBI may specify in the interest of investors.

**Utilization of Fund**

The fund may be used for the following purposes, namely:-
(a) Educational activities including seminars, training, research and publications, aimed at investors;
(b) Awareness programmes including through media - print, electronic, aimed at investors;
(c) Funding investor education and awareness activities of Investors’ Associations recognized by SEBI
(d) Salary, allowances and other expenses of office of Ombudsman; and
(e) Such other purposes as may be specified by SEBI.

**Conditions for Aid**

The aid shall be given by SEBI to investors’ associations, subject to the following conditions:
(a) that the aid shall not exceed seventy five per cent of the total expenditure on legal proceedings;
(b) such aid shall not be considered for more than one legal proceeding in a particular matter;
(c) 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.

**Constitution of the Committee**

SEBI shall constitute an advisory committee for recommending investor education and protection activities that may be undertaken directly by SEBI for utilization of the Fund. The Committee shall consist of the following members, namely:-
(a) The Executive Director of SEBI in charge of Office of Investor Assistance and Education who shall be the convener of the Committee;
(b) Two other officials of SEBI;
(c) Five other members who have expertise about the securities market and experience in matters of investor grievance redressal

The term of office of members shall be two years, which may be extended for a further period of two years.
INITIATIVES TAKEN SO FAR ON FINANCIAL LITERACY IN INDIA

• RBI’s initiatives

Reserve Bank of India 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, including school and college students, women and senior citizens. The project has been designed to be implemented in two modules, one module focusing on the economy, RBI and its activities, and the other module on general banking.

• SEBI Initiatives

Securities Exchange Board of India has embarked financial education on a nationwide campaign. To undertake financial education to various target segments viz. school students, college students, working executives, middle income group, self help groups etc., SEBI has empanelled Resource Persons throughout India. The Resource Persons are given training on various aspects of finance and equipped with the knowledge about the financial markets.

Regional seminars are conducted by SEBI through various stakeholders viz. Stock Exchanges, Depositories, Mutual Funds Association.

• 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.

• IRDA’s Initiatives on Financial Education

Insurance Regulatory and Development Authority has taken various initiatives in the area of financial literacy. Awareness programmes have been conducted on television and radio and simple messages about the rights and duties of policyholders, channels available for dispute redressal etc. have been disseminated through television and radio as well as the print media.

IRDA’s Integrated Grievance Management System (IGMS) creates a central repository of grievances across the country and provides for various analyses of data indicative of areas of concern to the insurance policyholder.

• PFRDA Initiatives on Financial Education

The Pension Fund Regulatory and Development Authority, India's youngest regulator has been engaged in spreading social security messages to the public. PFRDA has developed FAQ on pension related topics on its web.

• Market players Initiatives on Financial Education
Commercial banks are increasingly realizing that they are missing out on large segment of financially illiterate and excluded segment of prospective customers. The commercial banks have initiated various measures for creating awareness through Financial Literacy and Counseling Centers and Rural Self Employment Training Institutes on financial literacy. The objective of these centers is to advise people on gaining access to the financial system including banks, creating awareness among the public about financial management, counseling people who are struggling to meet their repayment obligations.

**INVESTOR GRIEVANCE REDRESSAL MECHANISM AT SEBI INVESTOR GREIVANCE**

There will be occasions when an investor has 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.

| SCORES (SEBI COMPLAINTS REDRESS SYSTEM) | • SCORES is a web based centralized grievance redress system of SEBI (http://scores.gov.in).
• SCORES enables investors to lodge and follow up their complaints and track the status of redressal of such complaints online from the above website from anywhere.
• This enables the market intermediaries and listed companies to receive the complaints online form investors, redress such complaints and report redressal online.

| 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. |
In the interest of better regulation of and orderly development of the securities market, SEBI has issued INFORMAL GUIDANCE SCHEME IN 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
(d) any mutual fund trustee company

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 in the context of proposed transaction securities.
- **Interpretive letters**: SEBI provides an interpretation of a specific provision of any Act, Rules, Regulations, Guidelines, Circulars in the context of a proposed transaction in securities.

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 Rs. 25,000/- and addressed to the concerned Department of SEBI. 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) those cases in which investigation, enquiry or other enforcement action has already been initiated;
(f) 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 there from a sum of ` 5,000/- towards processing charges.

**Q.Confidentiality of Request**

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.
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.

- **Note:**
  - **FORWARD MARKET COMMISSION:** the forward market commission (FMC) is a regulatory authority that is overseen by the ministry of consumer affairs, food and public distribution, govt. of india
Meaning:-

- Mutual Fund means a fund established in the form of a trust to raise monies through the sale of units to the public under one or more schemes for investing in securities including money market instruments or gold or gold related instruments.

“Put not your trust in Money, put your money in trust”

ADVANTAGES

The advantages of investing in a mutual fund are:

- **Professional Management**: Investors avail the services of experienced and skilled professionals who are backed by a dedicated investment research team which analyses the performance and prospects of companies and selects suitable investments to achieve the objectives of the scheme.

- **Diversification**: Mutual funds invest in a number of companies across a broad cross-section of industries and sectors. This diversification reduces the risk because seldom do all stocks decline at the same time and in the same proportion. Investors achieve this diversification through a Mutual Fund with far less money than one can do on his own.

- **Convenient Administration**: Investing in a mutual fund reduces paper work and helps investors to avoid many problems such as bad deliveries, delayed payments and unnecessary follow up with brokers and companies. Mutual funds save investors time and make investing easy and convenient.

- **Return Potential**: Over a medium to long term, Mutual funds have the potential to provide a higher return as they invest in a diversified basket of selected securities.
• **Low Costs**: Mutual funds are a relatively less expensive way to invest compared to directly investing in the capital markets because the benefits of scale in brokerage, custodial and other fees translate into lower costs for investors.

• **Liquidity**: In open ended schemes, investors can get their money back promptly at net asset value related prices from the mutual fund itself. With close ended schemes, investors can sell their units on a stock exchange at the prevailing market price.

• **Transparency**: Investors get regular information on the value of their investment in addition to disclosure on the specific investments made by scheme, the proportion invested in each class of assets and the fund manager’s investment strategy and outlook.

**Efficiency IN MUTUAL FUNDS**

The efficiency of mutual funds may be judged on the factors such as-

- Stability of funds;
- Liquidity of funds (listed on exchanges);
- Increase in NAV, consistent growth in dividend and capital appreciation;
- Whether the investment objectives are clearly laid and implemented;

**RISKS INVOLVED IN MUTUAL FUNDS**

Mutual funds may face the following risks, leading to non-satisfactory performance:

- Excessive diversification of portfolio, losing focus on the securities of the key segments.
- Too much concentration on blue-chip securities which are high priced and which do not offer more than average return.
- Poor planning of investment with minimum returns.
- Un-researched forecast on income, profits and Government policies.
- Fund managers being unaccountable for poor results.

**SCHEMSES OF MUTUAL FUNDS ACCORDING TO “MATURITY”**

- **Open ended mutual funds**: An open ended mutual fund is a fund with a non-fixed number of outstanding shares/units that stands ready at any time to redeem them on demand. The fund itself buys back the shares surrendered and is ready to sell new shares. Generally the transaction takes place at the net asset value which is calculated on a periodical basis.

- **Close ended mutual funds**: It is the fund where mutual fund management sells a limited number of shares and does not stand ready to redeem them. The shares of such mutual funds are traded in the secondary markets. The requirement for listing is laid down to grant liquidity to the investors who have invested with the mutual fund. Therefore, close ended funds are more like equity shares.
### THE MAIN DIFFERENCES BETWEEN CLOSE ENDED AND OPEN ENDED FUNDS ARE:

<table>
<thead>
<tr>
<th>CLOSE ENDED SCHEMES</th>
<th>OPEN ENDED SCHEMES</th>
</tr>
</thead>
<tbody>
<tr>
<td>• Fixed corpus: no new units can be offered beyond the limit</td>
<td>• Variable corpus due to ongoing purchase and redemption</td>
</tr>
<tr>
<td>• Listed on the stock exchange for buying and selling</td>
<td>• No listing on exchange transactions done directly with the fund</td>
</tr>
<tr>
<td>• Two values available namely NAV and the Market Trading Price</td>
<td>• Only one price namely NAV</td>
</tr>
<tr>
<td>• Mostly liquid</td>
<td>• Highly Liquid</td>
</tr>
</tbody>
</table>

### TYPES OF MUTUAL FUNDS SCHEMES ACCORDING TO “INVESTMENT OBJECTIVE”

1. **Income Oriented MF/Schemes**: The fund primarily offer fixed income to investors. Naturally enough, the main securities in which investments are made by such funds are the fixed income yielding ones like bonds.

2. **Growth Oriented MF/Schemes**: These funds offer growth potentialities associated with investment in capital market namely:
   - High source of income by way of dividend and
   - Rapid capital appreciation, both from holding of good quality scrip's. These funds, with a view to satisfying the growth needs of investors, primarily concentrate on the low risk and high yielding spectrum of equity scrip's of the corporate sector.

3. **Hybrid MF/ Schemes**: These funds cater to both the investment needs of the prospective investors - namely fixed income as well as growth orientation. Therefore, investment targets of these mutual funds are judicious mix of both the fixed income securities like bonds and debentures and also sound equity scrip's. In fact, these funds utilise the concept of balanced investment management. These funds are, thus, also known as “balanced funds”.

4. **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.

5. **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.

6. **Tax Saving MF/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.

7. **Special Schemes**: This category includes index schemes that attempt to replicate the performance of particular index such as the BSE, Sensex or the NSE-50. Index fund schemes are ideal for investors who are satisfied with a return approximately equal to that of an index.

8. **Real Estate Funds**: These are close ended mutual funds which invest predominantly in real estate and properties.
9. **Off-shore Funds**: Such funds invest in securities of foreign companies with RBI permission.

10. **Leverage 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.

11. **New Direction Funds**: They invest in companies engaged in scientific and technological research such as birth control, anti-pollution, oceanography etc.

12. **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 dip.

13. **Fund of Funds**: They invest only in units of other mutual funds. Such funds do not operate at present in India.

14. **Exchange Traded Funds (Basket Trading)**: Exchange Traded Funds represent a basket of securities which some of the are traded on an Exchange. They are very much similar with the Index Mutual Funds.

   The advantage of ETF over other mutual funds is that intraday trading is allowed in ETF but the same is not possible in the case of other mutual funds.

   The disadvantage of ETF over other mutual funds is that in the case of ETF, only institutions, companies and extremely wealthy persons can become an investor but in the case of other mutual funds, an investor having the marginal resources can also be an investor of that mutual fund.

15. **Capital protection oriented scheme**: This is a mutual fund scheme which is designed as such and which endeavors to protect the capital invested therein through suitable orientation of its portfolio structure.

   Regulation 38A of sebi (MF ) REGULATION,1996 provides that a capital protection oriented scheme may be launched, subject to the following:

   (a) the units of the scheme are rated by a registered credit rating agency
   (b) the scheme is close ended; and
   (c) there is compliance with such other requirements as may be specified by SEBI in this behalf.

16. **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.

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**INVESTMENT STRATEGIES**

**Top Down Investing:**

This 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.

**Bottom Up Investing:**
This is an investment strategy which considers the fundamental factors driving individual stock performance before considering the economic prospects which affect the industry and within which the company operates.

### MUTUAL FUNDS COSTS

1. **Operating Expenses:** Costs incurred in operating mutual funds include advisory fees paid to investment managers, custodial fees, audit fees, transfer agent fees, trustee fees, agents commission etc.

2. **Sales Charges/Loads:** These are otherwise called as sales loads and are charged directly to the investors. Mutual funds use the sales loads for payment of agents commission and expenses for distribution and marketing. Sales charges have no impact on the performance of the scheme as these are collected from the investor.

There are 2 types of Sales Charges/Loads:-

a) **Front end load (entry load):** Front end load is a onetime fixed fee which is paid by an investor while he buys into a scheme. Front end loads can be calculated as follows:

\[
\text{Public Offer (Purchase) Price} = \frac{\text{Net Asset Value}}{1 - \text{Front end Load}}
\]

b) **Back end Load (exit load):** This will be a fixed fee redemption load and is paid only at the time of redeeming or selling units of a load. This can be calculated as:

\[
\text{Redemption Price} = \frac{\text{Net Asset Value}}{1 + \text{Back end Load}}
\]

It may be noted that SEBI has decided not to charge entry load for direct applications received by the Asset Management Company (AMC) i.e. applications received through internet, submitted to AMC or collection center/ Investor Service Centre that are not routed through any distributor/agent/broker.

3. **Transaction Cost**
   - A transaction charges means trading expenses charged to the investor when buying or selling units of mutual funds. A transaction charges per subscription of Rs.10,000/- and above be allowed to be paid to the distributors of the Mutual Fund products. However, there shall be no transaction charges on direct investments.
   - The transaction charge in case of existing investors in a Mutual Fund, the distributor may be paid Rs.100/- as transaction charge per subscription of Rs.10,000/- and above. There shall be no transaction charge on subscription below Rs.10,000/- and in case of new investors, the distributor may be paid Rs.150/- as transaction charge for a first time investor in Mutual Funds.
   - In case of Systematic Investment Plans (SIPs), the transaction charge shall be applicable only if the total commitment through SIPs amounts to Rs.10,000/- and above. In such cases the transaction charge shall be recovered in 3-4 installments.
**ROLL OVER OF A SCHEME**

A mutual fund 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.

**SWITCH OVER ONE SCHEME TO ANOTHER**

A mutual fund 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.

**CONSTITUTION OF MUTUAL FUND REGULATION 14**

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 Indian Registration Act, 1908.

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1. **ASSET MANAGEMENT COMPANY (AMC)**-
   - Under SEBI (Mutual Fund) Regulations, 1996 every mutual fund is required to have an Asset Management Company (AMC) incorporated in the Companies Act, 2013.
   - To manage the funds of the mutual fund.
   - The AMC should be approved by SEBI and should enter into an agreement with the trustees of the mutual fund.
   - Appointment of AMC can be terminated by the majority of trustee or by not less than 75% of the unit holders of the scheme.

2. **CUSTODIAN OF SECURITIES**: Custodian means a person who has been granted a certificate of registration to carry on the business of custodian securities under SEBI (Custodian of Securities) Regulations, 1996.
3. **SPONSOR:** Sponsor means any person who, acting alone or in combination with another body corporate establishes a mutual fund.

4. **TRUSTEES:** Trustees mean the Board of Trustees or the Trustee Company who hold the property of the mutual fund in trust for the benefit of the unit holders.

5. **UNIT HOLDER:** A person holding one or more units in a scheme of a Mutual fund.

### RIGHTS, OBLIGATION AND DISQUALIFICATION OF TRUSTEE

#### RIGHTS

- Approval each of the scheme floated by the AMC
- The right to request any necessary information from the AMC
- May take corrective action if they believe that the conduct of the fund’s business is not in accordance with SEBI Regulation
- Ensure that any shortfall in net worth of the AMC is made up.

#### OBLIGATION

- Enter into an investment management agreement with the AMC
- Ensure that the fund’s transactions are in accordance with the trust deed.
- Furnish to SEBI on a half-yearly basis, a report on the fund’s activities.
- Review the investor complaints received and the redressal of the same by the AMC.

#### DISQUALIFICATION FROM BEING APPOINTED AS TRUSTEES

A person shall not be eligible to be appointed as trustees unless –
- he should be a person of ability, integrity and standing;
- he has not been found guilty of moral turpitude;
- he has not convicted of any economic offence
- a person already appointed as a trustee of a mutual fund cannot be appointed again as a trustee of any other mutual fund;
- 2/3 of the trustees shall be independent persons not associated with the sponsors

### ELIGIBILITY CRITERIA FOR A CERTIFICATE OF REGISTRATION - REGULATION 7

The applicant shall fulfilled following eligibility criteria to get a certificate of registration under Regulation 7.

- The applicant should be fit and proper person
- The sponsor should have a sound track record and have general reputation of fairness in all his business transaction.
- The mutual fund is in form of trust and the trust deed has been approved by SEBI
- The sponsor has contributed at least 40% to the net worth of the asset management company.
- Any sponsor or any person (officer, director) who is associated by the mutual fund shall not be guilty of fraud, shall not involved in any moral turpitude or shall not found in any economic offence.
The Offer Document shall have two parts i.e. Scheme Information Document (SID) and Statement of Additional Information (SAI).
SID shall incorporate all information pertaining to a particular scheme. SAI shall incorporate all statutory information on Mutual Fund.
The Mutual Funds shall prepare SID and SAI in the prescribed formats.
All offer documents (ODs) of Mutual Fund schemes shall be filed with SEBI. For the schemes launched in the first half of a financial year, the SID shall be updated within 3 months from the end of the financial year.
However, for the schemes launched in the second half of a financial year, SID shall be updated within 3 months of the end of the subsequent financial year.

**Investment made by mutual fund from the monies collected by scheme**

The monies collected under the scheme of a mutual fund shall be invested only in:

- Securities
- Money Market Instruments
- Privately placed debenture
- Securitized debt instruments
- Asset Backed or Mortgage backed securities
- Gold or gold related instrument
- Real estate assets.

**OVERSEAS INVESTMENT BY MUTUAL FUNDS**

Mutual Funds are permitted to make investment in:

1. ADRs/ GDRs issued by Indian or foreign companies
2. Equity of overseas companies listed on recognized stock exchanges overseas
3. Initial and follow on public offerings for listing at recognized stock exchanges overseas
4. Money market instruments rated not below investment grade
5. Government securities where the countries are rated not below investment grade
6. Derivatives traded on recognized stock exchanges overseas only for hedging and portfolio balancing with underlying as securities
CODE OF CONDUCT FOR MUTUAL FUNDS

(a) Mutual fund schemes should not be organised, operated, managed or the portfolio of securities selected, in the interest of sponsors, directors of AMCs, members of Board of trustees.

(b) Trustees and AMCs must ensure the dissemination to all unit holders of adequate, accurate, explicit and timely information fairly presented in a simple language about the investment policies, investment objectives, financial position and general affairs of the scheme.

(c) Trustees and AMCs must avoid conflicts of interest in managing the affairs of the schemes and keep the interest of all unit holders paramount in all matters.

(d) Trustees and AMC must not use any unethical means to sell; market or induce any investor to buy their schemes.

(e) Trustees and the AMC shall render at all times high standard of service, exercise due diligence, ensure proper care and exercise independent professional judgment.

ADVERTISEMENTS CODE FOR MUTUAL FUNDS

The Advertisement code prescribes for the following:

(a) Advertisements shall be accurate, true, fair, clear, complete, unambiguous and concise.

(b) Advertisements shall not contain statements which are false, misleading.

(c) Advertisements shall not contain statements which directly by omission may mislead the investor.

(d) Advertisements shall not carry any slogan that is unwarranted to the nature and risk and return profile of the product.

(e) No celebrities shall form part of the advertisement.

(f) Advertisements shall not be so framed as to exploit the lack of experience or knowledge of the investors.

(g) No advertisement shall directly or indirectly discredit other advertisements or make unfair comparisons.

(h) Advertisements shall be accompanied by a standard warning in legible fonts which states “Mutual Fund investments are subject to market risks, read all scheme related documents carefully. No addition or deletion of words shall be made to the standard warning.”

LISTING AGREEMENT

Every mutual fund desirous of listing units of its schemes on a recognised stock exchange shall execute an agreement with such stock exchange.

Regulation 32 lays down that every close ended scheme other than an equity linked saving scheme shall be listed in a recognized stock exchange within such time period and subject to condition as specified by SEBI. However, listing of close ended scheme shall not be mandatory—

(a) if the said scheme provides for periodic repurchase facility to all the unit holders

(b) if the said scheme provides for monthly income providing for repurchase of units at regular intervals; or

(c) if the details of such repurchase facility are clearly disclosed in the offer document,

(d) if the said scheme is a capital protection oriented scheme.

REPURCHASE OF CLOSE ENDED SCHEME

Regulation 33 says that Units of a close ended scheme, other than those of an equity linked savings scheme, shall not be repurchased before the end of maturity period of such scheme.
The units of close ended schemes may be open for sale at fixed predetermined intervals if the maximum and minimum amount of sale of the units and the periodicity of such sale or redemption has been disclosed in the offer document.

The conditions which are required to comply for the conversion of close ended scheme into open ended scheme are as follows:

(a) if the offer document of such scheme discloses the option and the period of such conversion; or
(b) the unit holders are provided with an option to redeem their units in full.

OFFERING PERIOD

Regulation 34 lays down that no scheme of mutual fund other than an initial offering of equity linked savings scheme shall be open for subscription for more than 15 days. However, in case of mutual fund schemes eligible under Rajiv Gandhi Equity Saving Scheme, the period specified in these regulations shall not be more than thirty days.

ALLOTMENT OF UNITS AND REFUNDS OF MONEYS

- The mutual fund and Asset Management Company shall be liable to refund the application money to the applicants:
  - if the mutual fund fails to receive the minimum subscription amount;
  - if the moneys received from the applicants for units are in excess of subscription.
- Any amount refundable shall be refunded within a period of five working days from the date of closure of subscription list.
- In the event of failure to refund the amounts within the period specified the asset management company shall be liable to pay interest to the applicants at a rate of fifteen per cent per annum from the expiry of five working days from the date of closure of the subscription list.

GUARANTEED RETURNS

Regulation 38 lays down that no guaranteed return shall be provided in a scheme:

- unless such scheme fully guaranteed by the sponsor or AMC;

INVESTMENT OBJECTIVES AND VALUATION POLICIES

Regulation 43 lays down that the monies collected under any scheme of a mutual fund shall be invested only in:

- securities,
- money market instruments;
- privately placed debentures;
- securitised debt instruments which are either asset backed or mortgage backed securities,
- gold or gold related instruments or
- real estate assets,
- infrastructure debt instrument and assets.

However monies collected under any money market scheme of a mutual fund shall be invested only in money market instruments. Moneys collected under any gold exchange trade fund scheme shall be invested only in gold or gold related instruments.
A mutual fund having an aggregate of securities which are worth Rs. 10 crore or more as on the latest balance sheet date, shall settle their transactions only through dematerialised securities. The mutual funds shall not borrow except to meet temporary liquidity needs for the purpose of repurchase, redemption of units. Such borrowals should not exceed 12% of the net asset value of the scheme and the duration of the borrowing shall not exceed six months.

**UNDERWRITING**

Regulation 46 permits mutual funds to enter into underwriting agreement after obtaining a certificate of registration in terms of SEBI Underwriters Rules and SEBI Underwriters Regulations.

**GENERAL OBLIGATIONS OF THE MUTUAL FUNDS**

Regulation 50 lays down that every AMC for each scheme shall keep and maintain proper books of accounts, records and documents give a true and fair view of the state of affairs of the fund. All these documents shall be preserved by the AMC for a period of 8 years.

Regulations 58 and 59 indicate the periodical and continual disclosures as well as half yearly disclosures to be made by the mutual fund, AMC and others closely connected to them.

**DISCLOSURE BY MUTUAL FUNDS**

<table>
<thead>
<tr>
<th>Monthly Portfolio Disclosures</th>
<th>Half Yearly disclosure of portfolios</th>
<th>Unaudited Half Yearly Financials</th>
</tr>
</thead>
<tbody>
<tr>
<td>• Mutual funds/AMCs shall make monthly portfolio disclosures as on the last day of the month for all their schemes on their respective website on or before the tenth day of the succeeding month in a user-friendly and downloadable format.</td>
<td>• Mutual funds shall send a compete statement of scheme portfolio to the unit holders before the expiry of one-month from the closure of each half year (i.e. March 31 and September 30), if such statement is not published by way of advertisement.</td>
<td>• The half yearly disclosures of the unaudited financial results on respective website should be made in a user-friendly and downloadable format.</td>
</tr>
<tr>
<td>• The format for monthly portfolio disclosure shall be same as that of half yearly portfolio disclosures.</td>
<td>• Disclosure of derivatives in half yearly portfolios, a format for the purpose of uniform disclosure of investments in derivative instruments by Mutual Funds in half yearly portfolio disclosure, annual report.</td>
<td>• The publication of the unaudited half-yearly results shall be made in line with provision of the Regulations, in the format prescribed in Twelfth schedule.</td>
</tr>
<tr>
<td>• Mutual funds/AMCs may also disclose additional information, subject to compliance with the Advertisement Code.</td>
<td>• The Scheme Portfolio(s) shall also be disclosed on the Mutual Funds’</td>
<td></td>
</tr>
</tbody>
</table>
websites before the expiry of one month from the closure of each Half Year (i.e. March 31 and September 30) and a copy of the same shall be filed with the SEBI along with the Half Yearly Results.

**Statement of Portfolio**

A mutual fund shall before the expiry of one month from the close of each half year (i.e., 31st March and 30th September), send to all unit holders a complete statement of its scheme portfolio.

**INSPECTION AND AUDIT**

SEBI is empowered to appoint inspecting officer to inspect and investigate the affairs of a mutual fund, the trustees, the AMC etc. SEBI may give a notice to the fund before such inspection or may dispense with it, if it feels the need.

**INFRASTRUCTURE DEBT FUND SCHEME**

Infrastructure Debt Fund Scheme means a mutual fund that invest minimum 90% of scheme assets in

- Debt securities
- Securitized debt Instrument of infrastructure companies
- Infrastructure capital company
- Infrastructure Projects
- Special purpose vehicle

For the purpose of facilitating or promoting investment in infrastructure and other permissible assets in respect of completed and revenue generating projects of infrastructure companies or projects or special purpose vehicles.

'Strategic Investor’ means

- an Infrastructure Finance Company registered with Reserve bank of India as Non-Banking Financial company
- a Scheduled Commercial Bank;
- International Multilateral Financial Institution.
- FPI registered with SEBI
### Condition for IDFS

1. An infrastructure debt fund scheme shall be launched either as close ended scheme maturing after more than 5 years and tenure can be extended of scheme upto two years with the consent of 2/3 of its investor by value.
2. The units of IDFS shall be listed on a recognised stock exchange after being fully paid-up.
3. An IDFS shall have minimum five investor and no single investor shall hold more than 50% of net asset of the scheme.
4. No investment shall be accept by investor which is less than Rs 1 crore.
5. The minimum size of unit shall be Rs.10 lakhs.
6. Strategic investors shall contribute atleast 25 crore before the allotment of units of the scheme are marketed to other potential investors.

### ELIGIBILITY CRITERIA FOR LAUNCHING INFRASTRUCTURE DEBT FUND SCHEME

- Require an adequate number of key personnel having adequate experience in infrastructure sector.
- An applicant proposing to launch infrastructure debt fund schemes, if the sponsor or the parent company of the sponsor:
  1. has been carrying on activities or business in infrastructure financing sector for a period of not less than five years;
  2. fulfills the eligibility criteria as provided in Mutual Fund Regulation.

### PERMISSIBLE INVESTMENTS OF INFRASTRUCTURE DEBT FUND.

Every Infrastructure Debt Fund scheme **Shall Invest**

At least 90% of the net assets of the scheme in the

- Securitized debt instruments or
- Debt securities

of the infrastructure companies or projects or special purpose vehicles

Which are created for the purpose of promoting investment in infrastructure which are generating revenue project of infrastructure company or SPV.

The **balance amount** shall be invested in equity shares, money market or any financial instruments engaged in infrastructure development projects.

**Shall Not Invest**

Every IDF shall not invest more than 30% of the net assets of the scheme in debt instruments or assets of any single infrastructure company.

- It can extended upto 50% with the prior approval of boards of AMC and trustee.
Shall not invest:

- a) Unlisted security of the sponsor or its associate
- b) Listed security by way of preferential allotment of sponsor or its associate.

PRIVATE PLACEMENT

The units of an infrastructure debt fund scheme may be offered through private placement to less than fifty persons, subject to approval by the trustees and the board of the asset management company. The offer made, shall be subject to the following:

- a) A placement memorandum shall be filed by the mutual fund with SEBI at least seven days prior to the launch of the scheme; and
- b) The mutual fund shall pay to SEBI, filing fee as specified in the Second Schedule.

GOLD EXCHANGE TRADED FUNDS

SEBI (Mutual Funds) (amendment) Regulation, permitted introduction of Gold Exchange Traded fund schemes by mutual fund.

Gold Exchange Traded Fund schemes are permitted to invest primarily in

- a) Gold
- b) Gold related instrument

A gold exchange traded fund scheme is subjected to the following investment restrictions

- a) The fund of any such scheme should be invested only in gold or gold related instrument
- b) Pending deployment of funds in accordance with clause (a), the mutual fund may invest such fund in short term deposits of scheduled commercial banks.

Gold Monetization Scheme (GMS)

SEBI has designated Gold Monetization Scheme (GMS) of as a gold related instrument. Investment in GMS of banks by Gold ETFs of mutual funds will be subject to following conditions:

- a) The cumulative investment by Gold ETF in Gold Deposit Scheme (GDS) and GMS will not exceed 20% of total AUM of such schemes.
- b) All other conditions applicable to investments in GDS of Banks will also be applicable to investment by Gold ETFs in GMS.

1. Valuation

Since physical gold and other permitted instruments linked to gold are denominated in gold tonnage, it will be valued based on the market price of gold in the domestic market and will be marked to market on a daily basis.

The market price of gold in the domestic market on any business day would be arrived at as under:

**Domestic price of gold = (London Bullion Market Association AM fixing in US$/ounce X conversion factor for converting ounce into kg for 0.995 fineness X rate for US$ into INR) + custom duty for import of gold + sales tax/octroi and other levies applicable.**
2. Recurring Expenses
For a GETF, the limits applicable to equity schemes as specified in SEBI Regulations shall be applicable.

3. Benchmark for GETF
As there are no indices catering to the gold sector/securities GETF shall be benchmarked against the price of Gold.

4. Half Yearly Report by Trustees
Physical verification of gold underlying the Gold ETF Units shall be carried out by statutory auditors of mutual fund schemes and reported to trustees on half yearly basis.

REAL ESTATE MUTUAL FUNDS SCHEME

“Real Estate Mutual Fund Scheme” means a mutual fund scheme that invests directly or indirectly in real estate assets or other permissible assets in accordance with SEBI (Mutual Funds) Regulations, 1996. “real estate assets” means an identifiable immovable property—

a. On which construction is complete and which is usable;

b. Which is evidenced by valid title documents;

c. Which is legally transferable;

d. Which is free from all encumbrances;

e. Which is not subject matter of any litigation;

Some of the salient features of REMFs use; or

a. Existing Mutual Funds are eligible to launch real estate mutual funds if they have adequate number of experienced key personnel/directors.

b. Sponsors seeking to set up new Mutual Funds, for launching only real estate mutual fund schemes, shall be carrying on business in real estate for a period not less than five years.

c. Every real estate mutual fund scheme shall be close-ended and its units shall be listed on a recognized stock exchange.

d. Net asset value (NAV) of the scheme shall be declared daily.

e. Caps will be imposed on investments in a single city, single project, securities issued by, sponsor/associate companies etc.

Q. NET ASSET VALUE

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. (Net Asset Value per share value of the funds is total net assets after liabilities divided by the total number of shares outstanding on a given day)

Thus if the NAV is the more than the face value of Rs. 10/-, there is an appreciation for the investment. If the NAV is less than the face value, it indicates depreciation of the investment.

\[
\text{NAV} = \frac{\text{Market value of the fund's investment + current assets} - (\text{current liabilities + provision})}{\text{No of shares or unit outstanding}}
\]
Q. VALUATION OF SHARES OF RIGHT ISSUE BY MFs

Value of the 'rights' shares should be calculated by MF as:

\[ V_r = n \times \frac{(P_{ex} - P_{of})}{m} \]

Where,
- \( V_r \) = Value of rights
- \( n \) = no. of rights offered
- \( m \) = no. of original shares held
- \( P_{ex} \) = Ex-rights price
- \( P_{of} \) = Rights Offer Price

COMPLIANCES UNDER SEBI (LISTING OBLIGATION AND DISCLOSURE REQUIREMENTS) REGULATION 2015

Obligations of Listed Entity which has listed its Mutual Fund Units

Submission of Documents
As per regulation 90(1) states that 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.

Dissemination on the website of stock exchange(s)
Regulation 91 provides that the listed entity shall submit such information and documents, which are required to be disseminated on the listed entity’s website.

Note:- Mezzanine financing

A hybrid of debt and equity financing that is typically used to finance the expansion of existing companies. Mezzanine financing is basically debt capital that gives the lender the rights to convert to an ownership or equity interest in the company, if the loan is not paid back in time and in full.

It is generally subordinate to debt provide by senior lenders such as banks and venture capital requirements.
ICSI QUESTION

Q1. The redemption price of a mutual fund unit is Rs. 48 while the front-end load and back-end load charges are 2 & and 3% respectively. You are required to calculate-

(i) Net asset value per unit; and
(ii) Public offer price of the unit.

Q2. Global mutual Fund has launched a scheme named ‘Grand Bonanza’. The net asset value (NAV) of the scheme is Rs. 12 per unit; the redemption price is Rs. 11.65 per unit; and offer price is Rs. 12.50 per unit. You are required to calculate Back-end load charges.

Q3. Discuss the various advantages, schemes and general obligations of Mutual Funds.

Q4. Discuss various schemes of Mutual funds.

Q5. What are the risks involved in Mutual funds?

Q6. Write short notes on:

(a) Net Asset Value (NAV)
(b) Mutual Fund Cost
(c) Asset Management Company
(d) Gold Exchange Traded funds
(e) Capital Protection Oriented Schemes.
Q. What is meant by Collective Investment Scheme (CIS)?

The Collective Investment Scheme means any scheme or arrangement made or offered by any company under which:

a) The contributions, or payments made by the investors, are pooled and utilised solely for the purposes of the scheme;
b) The payments are made to such scheme by the investors with a view to receive profits, income, whether movable or immovable from such scheme.
c) The property forming part of scheme, 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.

Q. Which are the schemes not treated as CIS?

The CIS, however, does not include any scheme or arrangement

a) made or offered by a co-operative society,
b) under which deposits are accepted by non banking financial companies,
c) being a contract of insurance,
d) providing for any Scheme, Pension Scheme or the Insurance Scheme framed under the Employees Provident Fund and Miscellaneous Provision Act, 1952,
e) under which deposits are accepted under section 73 -76 of the Companies Act, 2013,
f) under which deposits are accepted by a company declared as Nidhi or a mutual benefit society under section 406 of the Companies Act, 2013,

Q. What is meant by Collective Investment Company?

Collective Investment Scheme Regulation Act 1999 defines a collective Investment Company to means a company incorporated under the Companies Act and registered with SEBI whose object is to organize, operate and manage a collective investment scheme.

Q. What are the SEBI Regulations regarding CIS?

The applicant should satisfy the following eligibility criteria (conditions):

- The applicant is setup and registered as company under the Companies Act, 2013
- Specified the managing of collective investment scheme as one of its main object in MOA.
- At the time of application for registration as Collective Investment Management Company, these entities should have a minimum net worth of Rs. 3 crores that shall have to be increased to Rs. 5 crores within a time period of 3 years.
Each scheme shall have to obtain credit rating from a recognized Credit Rating Agency.
Adequate infrastructure require to operate CIS in accordance with regulation.
At least 50% of the director of such Collective Investment Management Scheme shall consist of independent directors.
The director or any key personnel of applicant shall not convict for any offence involving moral turpitude or economic offence.
One of the directors on the board of CIMC is a representative of trustee.
No change in controlling interest of the CIMC unless it approval by SEBI.
CIMC should take adequate steps to redress the grievances of the investors within one month from the date of receipt the complaint.

*CIMC=Collective Investment Management Company

<table>
<thead>
<tr>
<th>Restrictions on business activities</th>
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<tr>
<td>The Collective Investment Management Company should not:</td>
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<tr>
<td>• Undertake any activity other than that of managing the scheme;</td>
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<tr>
<td>• Act as a trustee of any scheme;</td>
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<tr>
<td>• Launch any scheme for the purpose of investing in securities;</td>
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<tr>
<td>• Invest in any schemes floated by it.</td>
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Obligations of Collective Investment Management Company

Every Collective Investment Management Company should:

• Be responsible for managing the funds or properties of the scheme on behalf of the unit holders
• Give receipts for all monies received by it and also give a report to SEBI every month, particularly of receipts and payments;

Q. When the agreement of the Collective Investment Management Company with the trustee is terminated?

The agreement entered into by trustee and CIMC shall be terminated if:

1. Winding up of CIMC
2. If the unit holders with the prior approval of SEBI holding at least 3/4th of the nominal value of the unit capital of a scheme pass a resolution for terminating the agreement.
3. SEBI after giving an opportunity of being heard to the CIMC decide to terminate the agreement in the interest of Unit Holder.

Q. What are the disclosure in Offer Document?

• The CIMC file a copy of the offer document of the scheme with SEBI along with prescribed fee.
• Offer document contains true and fair view of the scheme and disclosures to enable the investor to take proper decision.
• SEBI may suggest the modification in the interest of investors.
• If no modification is suggested by SEBI then within 21 days from the date of filling, the CIMC issue offer document to public.
• The minimum and the maximum subscription amount should specify in the offer document. **Allotment of units and refunds of monies**

• In case of fail to receive the minimum subscription amount, the CIMC shall refund the amount within a six weeks from the date of closure of subscription list, or pay interest to applicants at rate of 15%. A scheme shall not be open for more than 90 days. **Listing of units**

• The units of every scheme shall be listed immediately after the date of allotment of units and not later than 6 weeks from the date of closure of the scheme on each of the stock exchange as mentioned in the offer documents.

**RESTRICTION IN INVESTMENTS MADE BY CIMC**

The CIMC shall not:-

- Invest the funds other than objective of the scheme as disclosed in offer document.
- Segregate the assets of different scheme
- Transfer funds from one scheme to another.

**Note:** Inter scheme transfer of funds permitted at the time of termination of scheme with the prior approval of the trustee and SEBI.

**Q. Discuss the circumstances under which a collective investment scheme could be wound up?**

A scheme should be wound up on the expiry of duration specified in the scheme by following circumstances.

1) On the happening of any event which, in the opinion of the trustee, requires the scheme to be wound up and the prior approval of SEBI is obtained; or
2) If unit holders of a scheme holding at least three-fourth of the nominal value of the unit capital of the scheme pass a resolution that the scheme be wound up and the approval of SEBI is obtained; or
3) If in the opinion of SEBI, the continuance of the scheme is against the interests of the unit holders.
4) If in the option of the CIMC, the purpose of the scheme cannot be fulfilled.

**IMPORTANT QUESTION**

**Q:** Comment briefly on the following statements: Put not your trust in money, put your money in trust.

or

“Collective investment scheme is constituted as trust”

**Answer:** The small investors who generally lack expertise to invest on their own in the securities market have reinforced the saying “Put not your trust in money, put your money in trust”. They prefer some kind of collective investment vehicle like, MFs, which pool their marginal resources, invest in securities and
distribute the return there form among them on cooperative principles. The investors benefit in terms of reduced risk and higher returns arising from professional expertise of fund managers employed by the MFs. This approach was conceived in the USA in the 1930s. In developed financial markets, MFs have almost overtaken bank deposits and total assets of insurance funds.

Q1. What are the obligations of collective investment management company.

Q2. Discuss the various restrictions on business activities of collective investment management company.

Q3. Enumerate the rights and obligations of trustees of collective investment schemes.

Q4. What are the provisions relating to inspection and investigation of the affairs of the trustee and collective investment management company.

Q5. Discuss the circumstances under which a collective investment scheme could be wound up.
ALTERNATIVE INVESTMENT FUND

AIF means any fund established in India in the form of a trust, company, limited liability partnership or a body corporate which:

- Is a privately pooled investment vehicle that collects funds from investors, whether Indian or foreign, for investing for the benefit or its investors; and
- 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 the definition
- Family Trusts
- ESOP Trusts
- Employee Welfare Trusts
- Holding Companies as per companies Act, 2013
- Funds managed by registered securitization company and
- Any such pool of funds which is directly regulated by any other Indian regulator.

Small and medium enterprises (“SME”) Funds

These funds will invest primarily in unlisted securities of investee companies which are SMEs or securities of those SMEs which are listed on a SME exchange.

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.

Company with family connection

Company with family connection means:

(a) if the angel investor is an individual-
   ~ any company which is promoted by such an individual or his relative; or
   ~ any company where the individual is a director; or

(b) if the angel investor is a body corporate-
   ~ any company which is a subsidiary
   ~ any company which is part of the same group

Infrastructure Funds

These funds will primarily invest in unlisted securities or listed debt of investee companies, formed for, the purpose of operating in infrastructure projects.

Investible Fund

It means corpus of the Alternative Investment Fund

Private Equity (“PE”) Funds
PE funds will invest primarily in equity of investee companies.

Social Venture Funds

These funds will invest primarily in securities or units of social ventures

Venture Capital Funds

These funds will primarily invest in unlisted securities of start ups, emerging or early stage venture capital Undertakings mainly involved in new products, new services, technology.

Venture Capital Undertaking

“venture capital undertaking” means a domestic company:

- which is not listed on a recognised stock exchange in India at the time of making investment; and
- which is engaged in the business for providing services, production or manufacture of article and does not include following activities or sectors:
  1. non-banking financial companies;
  2. gold financing;

Investee company

It means a company, SPV, LLP in which an AIF makes an investment

SEBI (ALTERNATIVE INVESTMENT FUNDS) REGULATIONS, 2012

1. REGISTRATION OF AIF

- All AIFs are required to be mandatorily registered with SEBI.

Angel Fund

Angel fund means sub-category of Venture Capital Fund under Category I- Alternative Investment Fund that raises funds from angel investors.

Investment in Angel Funds

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 ten crore rupees.

Angel funds shall accept, up to a maximum period of three years, an investment of not less than twenty five lakh rupees from an angel investor.

Investment by Angel Funds

Angel funds shall invest only in venture capital undertakings which:

(a) have been incorporated during the preceding three years from the date of such investment;
(b) have a turnover of less than twenty five crore rupees;
(c) are not promoted by or related to an industrial group whose group turnover exceeds three hundred crore rupees; and
(d) Investment by an angel fund in any venture capital undertaking shall not be less than fifty lakh rupees and shall not exceed five crore rupees.
(e) Investment by an angel fund in the venture capital undertaking shall be locked-in for a period of three years.
(f) Angel funds shall not invest in associates.
(g) Angel funds shall not invest more than twenty-five per cent of the total investments under all its schemes in one venture capital undertaking.

2. INVESTMENT IN ALTERNATIVE INVESTMENT FUND

- the Alternative Investment Fund may raise funds from any investor by way of issue of units;
- each scheme of the Alternative Investment Fund shall have corpus of atleast twenty crore rupees;
- the Alternative Investment Fund shall not accept from an investor, an investment of value less than one crore rupees.
  However, in case of investors who are employees or directors of the Alternative Investment Fund or employees or directors of the Manager, the minimum value of investment shall be 25 lakh rupees.
- the Manager or Sponsor shall have a continuing interest in the Alternative Investment Fund of not less than two and half percent of the corpus or 5 crore rupees, whichever is lower, However, for Category III Alternative Investment Fund, the continuing interest shall be not less than five percent of the corpus or ten crore rupees, whichever is lower.
- the Manager or Sponsor shall disclose their investment in the Alternative Investment Fund to the investors of the Alternative Investment Fund;
- no scheme of the Alternative Investment Fund shall have more than 1000 investors;

3. General Investment Conditions and Restrictions

(a) Alternative Investment Fund may invest in securities of companies incorporated outside India subject to such conditions issued by the Reserve Bank of India and SEBI.
(b) Category I and II Alternative Investment Funds shall invest not more than twenty five percent of the investible funds in one Investee Company;
(c) Category III Alternative Investment Fund shall invest not more than ten percent of the investible funds in one Investee Company;
(d) Alternative Investment Fund shall not invest in associates except with the approval of seventy five percent of investors by value of their investment in the Alternative Investment Fund;

Overseas Investment by Alternative Investment Funds

“Alternative Investment Fund may invest in securities of companies incorporated outside India subject to such conditions issued by the Reserve Bank of India and SEBI

In accordance with the aforesaid RBI circular, it is stated as under:-

- AIFs may invest in equity and equity linked instruments only of offshore venture capital undertakings, subject to overall limit of USD 500 million.
- AIFs desirous of making investments in offshore venture capital undertakings shall submit their proposal for investment to SEBI for prior approval.
- 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 the recognized stock exchange in India or abroad.
- Such investments shall not exceed 25% of the investible funds of the scheme of the AIF.
• The 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. AIFs shall not invest in Joint venture/Wholly Owned Subsidiary while making overseas investments

CATEGORIES OF AIF

Category I: - Fund that invest in start-up or early stage ventures or social ventures or Small Medium Enterprises
Category II: - Funds that do not fall in Category I and III AIF.
Category III: - Funds that employ diverse or complex trading strategies.

KEY FEATURES OF AIF CATEGORIES

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<td>General information</td>
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</table>
• Minimum tenure of 3 year  
• Close ended fund  
• The tenure may be extended for a further period of 2 years only period of 2 years in case of close-ended with the approval of two-third fund subject to approval of two-third of the of the unit holders by value the unit holders by value of their investment.  
| Leverage / Hedging | 
• Shall not borrow/leverage except for meeting 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 the investible funds  
| Investment in one investor company | 
• Shall not invest more than 25% of its investible funds in one investee company  
| Tax “Pass Through” | 
• Category I AIFs will be considered as venture capital funds/companies for the purpose of Section 10(23FB) of the Income Tax Act, 1961  
| Valuation | 
• AIF must disclose to the investors the valuation procedure and the methodology for valuing assets  
• Valuation should be carried out by an independent valuer once in every 6 months. This period can be extended to one year with the approval of 75% of the investors value.  
| Reporting | 
• Within 180 days from the end of the year, an annual report is required to be presented to the investor.  

| Category II | 
|------------|-------------|
| General information | 
• Minimum tenure of 3 year  
• Close ended fund  
• The tenure may be extended for a further period of 2 years only period of 2 years in case of close-ended with the approval of two-third fund subject to approval of two-third of the of the unit holders by value the unit holders by value of their investment.  
| Leverage / Hedging | 
• Shall not borrow/leverage except for meeting temporary funding requirements  

| **Investment in one investor company** | • Shall not invest more than 25% of its investible funds in one investee company |
| **Tax “Pass Through”** | • The income from Category II and 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 to the investors the valuation procedure and the methodology for valuing assets  
  • Valuation should be carried out by an independent valuers once in every 6 months. This period can be extended to one year with the approval of 75% of the investors value. |
| **Reporting** | • Within 180 days from the end of the year, an annual report is required to be presented to the investor. |

**Category III**

| **General information** | • No minimum tenure prescribed.  
  • Open ended or close ended fund.  
  • The tenure may be extended for a further period of 2 years in case of close-ended fund |
| **Leverage / Hedging** | • May leverage or borrow (Subject to consent from investors and maximum limit specified by SEBI). |
| **Investment in one investor company** | • Maximum 10% of the investible funds in one investee company. |
| **Tax “Pass Through”** | • The income from Category II and 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.  
  • AIF to ensure that calculation of net asset value is independent from the fund by 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 investors  
  • Within 60 days from the end of the quarter, AIF is also required to provide a quarterly report to the investors. |
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.

Categories of AIF can be changed from one category to another with prior 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.
- 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.
- 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.

4. INVESTMENT STRATEGY

All Alternative Investment Funds shall state:

- investment strategy,
- investment purpose and
- investment methodology in its placement memorandum to the investors.

Any material alteration to the fund strategy shall be made with the consent of atleast two-thirds of unit holders by value of their investment in the Alternative Investment Fund.

5. PLACEMENT MEMORANDUM

Alternative Investment Fund and Angel Fund can raise funds through private placement by issue of information memorandum or placement memorandum,

Content of placement memorandum

- background of key investment team of the Manager,
- targeted investors,
- tenure of the Alternative Investment Fund
- conditions or limits on redemption,
- investment strategy,
- risk management tools
- key service providers,
- conflict of interest
- manner of winding up of the Alternative Investment Fund

6. SCHEMES

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 SEBI.

7. LISTING
Units of close ended Alternative Investment Fund may be listed on stock exchange subject to a minimum tradable lot of one crore rupees.

8. TRANSPARENCY

All Alternative Investment Funds shall ensure transparency and disclosure of information to investors on the following:
   (a) financial, risk management, operational, portfolio shall be disclosed periodically to the investors;
   (b) any inquiries/ legal actions by legal or regulatory bodies
   (c) change in control of the Sponsor or Manager or Investee Company;
   (d) Any significant change in the key investment team shall be intimated to all investors;

9. GENERAL OBLIGATIONS

(1) The Sponsor or Manager of Alternative Investment Fund shall appoint a custodian registered with SEBI for safekeeping of securities if the corpus of the Alternative Investment Fund is more than 500 crore rupees. However, the Sponsor or Manager of a Category III Alternative Investment Fund shall appoint such custodian irrespective of the size of corpus of the Alternative Investment Fund.

(2) In case of change in control of the Alternative Investment Fund, Sponsor or Manager, prior approval from SEBI shall be taken by the Alternative Investment Fund.

(3) The books of accounts of the Alternative Investment Fund shall be audited annually by a qualified auditor.

10. OBLIGATION OF MANAGER

The Manager shall be obliged to:
   (a) address all investor complaints;
   (b) provide to SEBI any information sought by SEBI;
   (c) maintain all records as may be specified by SEBI;

11. MAINTENANCE OF RECORDS

The records shall be maintained for a period of five years after the winding up of the fund.

12. WINDING UP

(1) An Alternative Investment Fund set up as a trust shall be wound up:
   (a) when the tenure of the Alternative Investment Fund as mentioned in the placement memorandum is over; or
   (b) if it is the opinion of the trustees, that the Alternative Investment Fund be wound up in the interests of investors in the units; or
   (c) if seventy five percent of the investors by value of their investment in the Alternative Investment Fund pass a resolution at a meeting of unit holders that the Alternative Investment Fund shall be wound up; or
   (d) if SEBI so directs in the interests of investors.

(2) An Alternative Investment Fund set up as a limited liability partnership shall be wound up if:-
(a) when the tenure of the Alternative Investment Fund as mentioned in the placement memorandum is over; or
(b) if seventy five percent of the investors by value of their investment in the Alternative Investment Fund pass a resolution at a meeting of unit holders that the Alternative Investment Fund shall be wound up; or
(c) if SEBI so directs in the interests of investors.

(3) An Alternative Investment Fund **set up as a company** shall be wound up in accordance with the provisions of the Companies Act, 2013.

GUIDELINES ON DISCLOSURES, REPORTING AND CLARIFICATIONS UNDER AIF REGULATIONS

1. SEBI has prescribed that Category III AIFs should report to the custodian the amount of leverage at the end of the day, by the end of next working day.
2. SEBI has further clarified that AIFs should include in the placement memorandum detailed disclosures of the fees and charges as applicable to the investors.
3. All guidelines that are issued by SEBI with respect to KYC requirements, Anti-Money Laundering and outsourcing of activities should be applicable to AIFs and the manager of the AIF should be responsible for complying with such guidelines.

SEBI (FOREIGN VENTURE CAPITAL INVESTORS) REGULATIONS, 2000

*Foreign Venture Capital Investor* means an investor incorporated and established outside India, which proposes to make investment in venture capital fund or venture capital undertakings in India

1. **APPLICATION FOR GRANT OF CERTIFICATE**

The applicant is required to make an application along with the registration fee to SEBI for the purposes of seeking registration.

2. **ELIGIBILITY CRITERIA**

SEBI assesses the application of VCF on the following criteria:

1. the applicants track record, financial soundness, experience, general reputation of fairness and integrity;
2. whether the applicant has been granted necessary approval by the Reserve Bank of India for making investments in India;
3. whether the applicant is an investment company, investment trust, investment partnership,
4. whether the applicant is authorized to invest in venture capital fund

SEBI may require the applicant to furnish further information, if it considers necessary.

3. **PROCEDURE FOR GRANT OF CERTIFICATE**

If SEBI is satisfied that the applicant is eligible for the grant of certificate, it should send intimation to the applicant and on the receipt of intimation,

4. **CONDITIONS OF CERTIFICATE**

The certificate to be granted to the foreign venture capital is subject to the the conditions that:
1. it should abide by the provisions of the Act, and these regulations;
2. it should appoint a domestic custodian for purpose of custody of securities;
3. it should enter into arrangement with a designated bank for the purpose of operating a foreign currency account;
4. it should inform SEBI in writing in any material change in the information

5. INVESTMENT CRITERIA FOR A FOREIGN VENTURE CAPITAL INVESTOR

All investments to be made by a foreign venture capital investors should be subject to the following conditions:
1. it should disclose to SEBI its investment strategy.
2. it can invest its total funds committed in one venture capital fund or alternative investment fund.
3. it shall make investments as enumerated below:
   - at least 66.67% of the investible funds should be invested in unlisted equity shares
   - not more than 33.33% of the investible funds may be invested by way of:
     - subscription to initial public offer of a venture capital undertaking whose shares are proposed to be listed;
     - debt or debt instrument of a venture capital undertaking
     - Preferential allotment of equity shares of a listed company subject to lock in period of one year.

6. MAINTENANCE OF BOOKS AND RECORDS

Every Foreign Venture Capital Investor is required to maintain for a period of eight years, books of accounts, records and documents

7. POWER TO CALL FOR INFORMATION

SEBI may at any time call for any information from a Foreign Venture Capital Investor

8. GENERAL OBLIGATIONS AND RESPONSIBILITIES

Foreign Venture Capital Investor should enter into an agreement with the domestic custodian to act as a custodian of securities for Foreign Venture Capital Investor.

9. APPOINTMENT OF DESIGNATED BANK

Foreign Venture Capital Investor is required to appoint a branch of a bank approved by Reserve Bank of India as designated bank for opening of foreign currency denominated accounts

10. INSPECTION OR INVESTIGATION

SEBI may, suo moto or upon receipt of information or complaint, cause an inspection to be made in respect of conduct and affairs of any foreign venture capital investor by an Officer whom SEBI considers fit.

11. APPEAL TO SECURITIES APPELLATE TRIBUNAL

Any person aggrieved by an order of SEBI may prefer an appeal to the Securities Appellate Tribunal.
QUESTION FROM ICSI BOOK

Q1. What is the Alternative Investment Fund.

Q2. What is the Placement Memorandum. Discuss briefly the contents of Placement Memorandum.

Q3. Explain the different categories of Alternative Investment Fund.
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.

“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 in India, as its underlying;

1. REGISTRATION OF FOREIGN PORTFOLIO INVESTORS

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.
An application for the grant of certificate as foreign portfolio investor shall be made to the designated depository participant.

2. ELIGIBILITY CRITERIA

An applicant desirous of foreign portfolio investor registration should, inter alia, satisfy the following conditions:
• It should not be resident in India or a Non-Resident Indian.
• It should be a resident of a country:-
  ~ whose securities market regulator is a signatory to IOSCO’s Multilateral MOU
• It should legally be permitted to invest in securities outside the country of its incorporation
• It must be a fit and proper person as prescribed.
• the applicant has sufficient experience, good track record,
### Categories of FPI

#### 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.

#### 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;
- 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.

**Explanation**

(A) “Broad based fund” shall mean a fund, established or incorporated outside India, which has at least twenty investors, with no investor holding more than 49% of the shares or units of the fund. However, if the broad based fund has an institutional investor who holds more than 49% of the shares or units in the fund, then such institutional investor must itself be a broad based fund.

**Q. Whether entities which are not regulated are eligible to be registered as FPIs?**

**Ans.** Entities which are not appropriately regulated can register as Category III FPIs.

### 3. Grant of Certificate

The designated depository participant grants a certificate after getting satisfied that the applicant is eligible for the grant of a certificate of registration.

If an applicant seeking registration as a foreign portfolio investor has any grievance, it may approach SEBI for appropriate instructions.

### 4. Suspension, Cancellation or Surrender of Certificate

The registration granted by the designated depository participant on behalf of SEBI under these regulations shall be permanent unless suspended or cancelled by SEBI.
5. INVESTMENT CONDITIONS AND RESTRICTIONS

INVESTMENT RESTRICTIONS

- A foreign portfolio investor shall invest only in the following securities, namely:
  - Securities in the primary and secondary markets including shares, debentures;
  - Units of schemes floated by domestic mutual funds;
  - 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;
  - Perpetual debt instruments and debt capital instruments, as specified by the Reserve Bank of India from time to time;
  - Indian depository receipts;
  - 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.

- In respect of investments in the secondary market, the following additional conditions shall apply:
  - 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; except
    - Any transactions in derivatives on a recognized stock exchange;
    - Short selling transactions in accordance with the framework specified by SEBI;
    - Any other transaction specified by SEBI.
  - No transaction on the stock exchange shall be carried forward;
  - The transaction of business in securities by a foreign portfolio investor shall be only through stock brokers registered by SEBI.
  - 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.

INVESTMENT IN OFFSHORE DERIVATIVE INSTRUMENTS (ODIs) BY FPI

- 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,
- 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.
- 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.

Know Your Client (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.
6. OBLIGATIONS AND RESPONSIBILITIES OF FOREIGN PORTFOLIO INVESTORS (FPIs)

1. The foreign portfolio investor shall
   - comply with the provisions of these regulations, circulars and any other terms and conditions specified by SEBI
   - FPI shall not be found to give false information,
   - FPI should intimate to SEBI in case of any material change in information previously given,
   - obtain a Permanent Account Number from the Income Tax Department;
   - provide such declarations and undertakings as required by the designated depository participant.

7. CODE OF CONDUCT
   - A foreign portfolio investor and its key personnel shall observe high standards of integrity, fairness and professionalism in all dealings in the Indian securities market,
   - A foreign portfolio investor shall, at all times, render high standards of service, exercise due diligence and independent professional judgment.
   - A foreign portfolio investor shall not make any untrue statement
   - A foreign portfolio investor shall ensure that good corporate policies and corporate governance
   - A foreign portfolio investor shall ensure that it does not engage in fraudulent and manipulative transactions in the securities listed in any stock exchange in India
   - A foreign portfolio investor shall not indulge in any insider trading.

8. APPOINTMENT OF COMPLIANCE OFFICER

Every foreign portfolio investor and DDPs shall appoint a compliance officer who shall be responsible for monitoring the compliance of the Act. The compliance officer shall immediately and independently report to SEBI and the designated depository participant regarding any noncompliance observed by him.

9. MAINTENANCE OF PROPER BOOKS OF ACCOUNTS, RECORDS AND DOCUMENTS

Every foreign portfolio investor and DDPs shall preserve the books of accounts, records and documents for a minimum period of five years.

10. PROCEDURE FOR INSPECTION AND INVESTIGATION

SEBI can appoint one or more persons as inspecting authority to undertake inspection and investigation of the books of account.

NOTICE OF INSPECTION OR INVESTIGATION

SEBI shall give ten days written notice to the DDPs before ordering an inspection or investigation. SEBI in the interest of the investors may order in writing, direct that the inspection or investigation of the affairs of the DDPs to be taken up without such notice.

OBLIGATIONS OF DESIGNATED DEPOSITORY PARTICIPANTS IN 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
  ~ furnish such statements and information relating to its activities,
- The designated depository participants shall allow the inspecting officer to have reasonable access to the premises occupied by such designated depository participant.

**SUBMISSION OF REPORT TO SEBI**

The inspecting officer shall, as soon as possible, on completion of the inspection or investigation report to SEBI.

**APPOINTMENT OF AUDITOR**

SEBI have the power to appoint an auditor to inspect or investigate.

11. Appointment of DDP
12. Appointment of custodian
13. Appointment of designated bank

**11. APPROVAL OF DESIGNATED DEPOSITORY PARTICIPANT** *(Explanation)*

**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. 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. 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.

**ELIGIBILITY CRITERIA OF DESIGNATED DEPOSITORY PARTICIPANT**

- The applicant is a participant registered with SEBI.
- The applicant is a custodian of securities registered with SEBI.
- The applicant is a fit and proper person.
- SEBI may consider an application from a global 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.

**PROCEDURE WHERE APPROVAL IS NOT GRANTED**

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.

**VALIDITY OF APPROVAL**

The approval granted by SEBI under these regulations shall be permanent unless suspended.

**Obligation and responsibilities of Designated depositories participants (DDP)**

All designated depository participants (DDPs) who have been granted approval by SEBI shall –

- comply with the provisions of these regulations, circulars and any other terms and conditions specified by SEBI.
- DDP shall not found to give false information,
- DDP should intimate to SEBI in case of any material change in information previously given,
- Ensure that only registered foreign portfolio investors are allowed to invest in securities market.
- Ensure that foreign portfolio investor does not have opaque structure(s).

12. APPOINTMENT OF CUSTODIAN OF SECURITIES

A foreign portfolio investor, who is acting on behalf of the foreign 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.

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.

13. 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.
SEBI (ISSUE AND LISTING OF NON-CONVERTIBLE REDEEMABLE PREFERENCE SHARES) REGULATIONS, 2013

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.

These Regulations are applicable to –

**DEFINITIONS**

“**Non-Convertible Redeemable Preference Share**” means a preference share which is redeemable in accordance with the provisions of the Companies Act, 2013 and does not include a preference share which is convertible into or exchangeable with equity shares of the issuer at a later date, with or without the option of the holder.

“**Innovative Perpetual Debt Instrument**” means an innovative perpetual debt instrument issued by a bank in accordance with the guidelines framed by the Reserve Bank of India;

“**Willful Defaulter**” means any person who is categorized as a willful defaulter by any bank or financial institution in accordance with the guidelines on willful defaulters issued by the RBI and includes any person whose director, promoter or principal officer is categorized as such.

**ISSUE OF NON-CONVERTIBLE REDEEMABLE PREFERENCE SHARES**

**CONDITIONS**

A Company cannot make any public issue of non-convertible redeemable preference shares

1. The company or the person in control of the company or its promoter prohibited or debarred by SEBI from accessing the securities market
2. The company or any of its promoters or directors is a willful defaulter.
3. It has made an application to one or more recognized stock exchanges for listing of such securities therein.
4. It has obtained in-principle approval for listing of its non-convertible redeemable preference shares.
5. Obtain Credit rating from more than CRA registered with SEBI, shall be disclosed in the offer document.
6. The minimum tenure of the non-convertible redeemable preference shares shall not be less than three years.
7. The Company shall create a capital redemption reserve in accordance with the provisions of the Companies Act, 2013.

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
2. In case of public issue the Company shall appoint one or more merchant bankers registered with SEBI

DISCLOSURES OF MATERIAL INFORMATION

1. The offer document must contain all material disclosures. 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 SEB
2. The amount of minimum subscription which the issuer seeks to raise 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.

MODE OF DISCLOSURE

The draft offer document shall be:-

- Filed with the designated stock exchange and the same shall be posted on the website of the designated stock exchange for seeking public comments for a period of 7 working days and simultaneously file thereof with ROCs for dissemination on its website prior to the opening of the issue.
- Also displayed on the website of the company, merchant bankers and the stock exchanges where the non-convertible redeemable preference shares are proposed to be listed.
- Displayed on the websites of stock exchanges and shall also be available for download in PDF / HTML formats.
- Where any person makes a request for a physical copy of the offer document, the same shall be provided to him by the issuer or lead merchant banker.
ADVERTISEMENTS

- The Company should make an advertisement in one English national daily newspaper and one Hindi national daily newspaper
- A Company should not issue an advertisement –
  ~ which is misleading in material particular
  ~ which contain a statement which is untrue

ABRIDGED PROSPECTUS AND APPLICATION FORMS

Every application form issued by the issuer is accompanied by a copy of the abridged prospectus. The issuer may provide the facility for subscription of application in electronic mode.

ON-LINE ISSUANCES

A Company proposing to issue of non-convertible redeemable preference shares to the public through the online system of the designated stock exchange.

ISSUE PRICE

A Company may determine the price of non-convertible redeemable preference shares in consultation with the lead merchant banker.

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 which shall not be less than 15% per annum.

OPTIONAL UNDERWRITING

An issuer can appoint underwriter.

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.
- 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 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 shall execute an agreement with such stock exchange.
SECURITY DEPOSIT

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.

OBLIGATIONS OF THE ISSUER, LEAD MERCHANT

1. The issuer shall disclose all the material facts in the offer documents
2. The Merchant Banker shall verify and confirm that the disclosures made in the offer documents are true, fair and adequate

INSPECTION BY SEBI

Regulation 24 provides that SEBI may, appoint one or more persons to undertake the inspection and investigation of the books of account, records. While undertaking an inspection by the inspecting authority or SEBI, as the case may be, shall follow the procedure specified by SEBI for inspection of the intermediaries.

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 there under 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 minimum application size for each investor is not less than 2 lakh rupees.
DEFINITIONS

“Associate” of any person includes:-
- Any person controlled, directly or indirectly, by the said person;
- Any person who controls, directly or indirectly, the said person;
- Where the said person is an individual, any relative of the individual;
- Where the said person is a company or a body corporate or an LLP, its group companies;
- Companies or LLPs under the same management;

“Re-Designated Sponsor” means any person who has assumed the responsibility of the sponsor

“REIT Assets” means real estate assets and any other assets owned by the REIT whether directly or through a special purpose vehicle;

“Right-Of-First-Refusal” or “ROFR” of a REIT means the right given to the REIT by a person to enter into a transaction with it before the person is entitled to enter that transaction with any other party.

“Transferable Development Rights” or “TDR” shall mean development rights issued by the competent authority under relevant laws in lieu of the area relinquished or surrendered by the owner or developer or by way of declared incentives by the government or authority;

REAL ESTATE INVESTMENT TRUST
“REIT” or “Real Estate Investment Trust” shall mean a trust registered as such under these regulations.

1. REGISTRATION OF REAL ESTATE INVESTMENT TRUSTS

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

2. ELIGIBILITY CRITERIA

(a) Applicant: Applicant must be a Trust and the Trust deed must be duly registered in India under the provisions of the Registration Act, 1908

(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.

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 crore; not less than 5 years of experience in fund management in the real estate industry and not less than 2 key personnel who each have not less than 5 years of experience in fund management in the real estate industry.

(d) Trustee: It should be registered with SEBI under SEBI (Debenture Trustees) Regulations, 1993;

(e) The unit holder of the REIT shall not enjoy preferential voting

(f) There are no multiple classes of units of REIT;

(g) The applicant and parties to the REIT are fit and proper persons
3. PROCEDURE FOR GRANT OF CERTIFICATE

SEBI on being satisfied that the applicant fulfils the eligibility requirements, shall send intimation to the applicant and grant certificate of registration.

4. CONDITIONS OF CERTIFICATE

- The REIT shall abide by the provisions of the Act and these regulations.
- The REIT shall forthwith inform SEBI in writing, if any information or particulars previously submitted to SEBI are found to be false or misleading in any material particular or if there is any material change in the information already submitted.
- The REIT and parties to the REIT shall satisfy with the conditions as prescribed in these regulations.
- The REIT and parties to the REIT shall comply with the Code of conduct.

RIGHTS AND RESPONSIBILITIES OF TRUSTEE

1. The Trustee shall hold the REIT assets in trust for the benefit of the unit holders.
2. The Trustee shall enter into an investment management agreement with the manager on behalf of the REIT.
3. The trustee shall oversee activities of the manager in the interest of the unit holders,
4. The trustee shall ensure that the manager complies with the reporting and disclosures requirements in these regulations.
5. The trustee shall periodically review the status of unit holders’ complaints.
6. The trustee shall make distributions and ensure that the manager makes timely declaration of distributions to the unit holders.
7. The trustee and its associates shall not invest in units of the REIT in which it is designated as the trustee.

RIGHTS AND RESPONSIBILITIES OF MANAGER

1. The manager shall make the investment decisions with respect to the underlying assets of the REIT.
2. The manager shall ensure that the real estate assets of the REIT have proper legal and marketable titles.
3. The manager shall ensure that the investments made by the REIT are in accordance with the investment conditions specified in these regulations.
4. The manager, in consultation with trustee, shall appoint the valuer, auditor, registrar and transfer agent, merchant banker, custodian and any other intermediary.
5. The manager shall appoint an auditor for a period of not more than five consecutive years.
6. The manager shall be responsible for,-
   (a) Filing the draft and final offer document with SEBI and the designated stock exchange.
   (b) obtaining in-principle approval from the designated stock exchange;
7. The manager shall declare distributions to the unit holders in accordance with this regulation.
8. The manager shall submit to the trustee,-
   (a) quarterly reports on the activities of the REIT within 30 days of end of such quarter.
RIGHTS AND RESPONSIBILITIES OF SPONSOR(S)

Regulation 11 provides for the rights and responsibilities of the Sponsor(s). These are the followings:

1. The sponsor(s) shall set up the REIT and appoint the trustee of the REIT.
2. The sponsor(s) shall transfer or entire ownership of the real estate assets to the REIT prior to allotment of units of the REIT to the applicants.
3. With respect to holding of units in the REIT, the sponsor(s) shall,-
   (a) Hold a minimum of 25% of the total units of the REIT after initial offer on a post-issue basis and shall be held for a period of at least three years from the date of listing of such units.
   (b) Together hold not less than 15% of the outstanding units of the listed REIT.
   (c) Individually, hold not less than 5% of the outstanding units of the listed REIT.
4. If the sponsor(s) propose(s) to sell its units
   (a) such units shall be sold only after a period of three years from the date of listing of the units;

RIGHTS AND RESPONSIBILITIES OF THE VALUER

1. The valuer(s) shall ensure that the valuation of the REIT assets is impartial, true and fair in accordance with these regulation.
2. The valuer(s) shall ensure adequate and robust internal controls to ensure the integrity of its valuation reports.
3. The valuer(s) shall ensure that it has sufficient key personnel with adequate experience and qualification to perform property valuations at all times.
4. The valuer(s) shall conduct the valuation of the REIT assets with transparency and fairness and shall render, high standards of service.
5. The valuer(s) shall not accept remuneration, in any form, for performing a valuation of the REIT assets from any person other than the REIT.
6. The valuer(s) shall not make false, misleading in order to secure assignments;

RIGHTS AND RESPONSIBILITIES OF THE AUDITOR

1. The auditor shall conduct audit of the accounts of the REIT and prepare 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.
2. 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.
3. The auditor shall have a right of access at all times to the books of accounts and vouchers pertaining to activities of the REIT.
5. ISSUE AND LISTING 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,

| 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. |

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.
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.
6. 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.
7. 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.
8. Under both the initial offer and follow-on public offer, the REIT shall not accept subscription of an amount less than two lakh rupees from an applicant.
9. Initial offer and follow-on offer shall not be open for subscription for a period of more than thirty days.
10. 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.
11. The REIT shall issue units only in dematerialized form to all the applicants.
12. The REIT shall refund money to, -

| a) all applicants in case it fails to collect subscription amount of exceeding 75% of the issue size as |
| (b) applicants to the extent of oversubscription in case the moneys received is in excess of the extent of over-subscription |
| c) all applicants in case the number of subscribers to the initial offer forming part of the public is less than 200. |
13. 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.

14. 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.

15. 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.

6. OFFER DOCUMENT AND ADVERTISEMENTS

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<th>the offer document shall</th>
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<td>include all information as specified in Schedule III to these regulations issued by SEBI.</td>
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7. LISTING AND TRADING OF UNITS

1. After the initial offer it shall be mandatory for all units of REITs to be listed on a recognized stock exchange within a period of 12 working days from the date of closure of the offer.

2. Trading lot for the purpose of trading of units of the REIT shall be one lakh rupees.

3. The REIT shall redeem units only by way of a buy-back or at the time of delisting of units.

4. 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.

8. DELISTING OF UNITS

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.
   (d) SEBI or the designated stock exchanges require such delisting for violation of the listing agreement or these regulations or the Act;
   (e) Unit holders apply for such delisting in accordance with these regulations.
INVESTMENT CONDITIONS AND DISTRIBUTION POLICY

- The Investment by a REIT shall only be in SPVs or TDR in India.
- The REIT shall not invest in vacant land or agricultural land or mortgages other than mortgage backed securities.

- **Not less than 8% of value of the REIT assets** shall be invested proportionate to the holding of the REITs in completed and rent generating properties.

- **Not more than 20% of value of the REIT assets** shall be invested proportionate to the holding of the REITs in assets other than as provided above and such other investment shall only be in:
  - (a) Properties, in which **not more than 10% of value of the REIT assets** shall be invested, i.e.,
    1. under-construction properties which shall be held by the REIT for not less than 3 years after completion;
    2. under-construction properties which are a part of the existing income generating properties owned by the REIT which shall be held by the REIT for not less than 3 years after completion;
    3. completed and not rent generating properties which shall be held by the REIT for not less than 3 years from date of purchase;
  - (b) Listed or unlisted debt of companies or body corporate in real estate sector. This shall not include any investment made in debt of the SPV.
  - (c) Mortgage Backed Securities;
  - (d) Equity shares of companies listed on a recognized stock exchange in India which derive not less than seventy five per cent of their operating income from real estate activity.
  - (e) Government Securities
  - (f) TDR
  - (g) Money Market Instruments or Cash equivalents.

- Not less than 75% of the revenues of the REIT and the SPV shall be, at all times, from rental, leasing and letting real estate 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.
- A REIT shall hold any completed and rent generating property 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 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. However, investment in debt securities shall not be considered as lending.
- **With respect to distributions made by the REIT and the SPV,**
  - (a) Not less than 90% of net distributable cash flows of the SPV shall be distributed to the REIT
  - (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,
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

If the SPV proposes to reinvest sale proceeds it shall not be required to distribute any sale proceeds from such sale to the REIT;

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.

(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.

RELATED PARTY TRANSACTIONS

- All related party transactions shall be on an arms-length basis, in the best interest of the unit holders,
- A REIT, subject to the conditions specified hereunder, may,
  a) Acquire assets from related parties;
  b) Sell assets or securities to related parties;
  c) Lease assets to related parties;
  d) Lease assets from related parties;
- In case of any related party transactions entered into prior to making the initial offer,
  1. Adequate disclosures to that effect shall be made in the initial offer document
- In case of any related party transactions entered into after the initial offer,
  1. Adequate disclosures shall be made to the unit holders and to the designated stock exchanges
- in case:
  - the total value of all the related party transactions, in a financial year exceeds 10% of the value of REIT,
  Then obtain prior approval from unit holders.

BORROWINGS AND DEFERRED PAYMENTS

- The aggregate consolidated borrowings and deferred payments of the REIT net of cash shall never exceed 49% of the value of the REIT assets.

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.
- A full valuation shall be conducted by the valuer at least once in every 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.
- 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.

10. RIGHTS AND MEETINGS OF UNIT HOLDERS

1. The unit holder shall have the rights to receive income or distributions

2. With respect to any matter requiring approval of the unit holders,
(a) the voting may also be done by postal ballot or electronic mode;
(b) a notice of not less than 21 days either in writing or through electronic mode shall be provided to the unit holders;

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. In case of,
   - any approval from unit holders required for investment conditions,
   - any transaction, other than any borrowing, value of which is equal to or greater than 25% of the REIT assets;

Approval from unit holders shall be required where the votes cast in favour of the resolution shall be not less than one and half times the votes cast against the resolution.

5. In case of,
   (a) any change in manager including removal of the manager
   (b) any material change in investment strategy
   (c) the sponsor(s) or manager proposing to seek delisting of units of the REIT;

Approval from unit holders shall be required where the votes cast in favour of the resolution shall be not less than three times the votes cast against the resolution.

11. DISCLOSURES

1. The manager shall ensure that the disclosures in the offer document
2. The manager shall submit an annual report to all unit holders of the REIT within three months from the end of the financial year.
3. The manager shall submit a half-yearly report to all unit holders of the REIT with respect to activities of the REIT within forty five days from the end of the half year ending on September 30th.
SEBI (INFRASTRUCTURE INVESTMENT TRUSTS) REGULATIONS, 2014

DEFINITIONS

“Completed and revenue generating project” means an infrastructure project, which prior to the date of its transfer to the InvIT, satisfies the following conditions, the infrastructure project has—

(i) achieved the commercial operations date
(ii) received all the requisite approvals and certifications for commencing operations; and
(iii) been generating revenue from operations for a period of not less than one year;

“PPP Project” means an infrastructure project undertaken on a Public-Private Partnership basis between a public authority and a private SPV, selected on the basis of open competitive bidding.

“Pre-Cod Project” means an infrastructure project which,—

• has not achieved commercial operation date.
• any agreement entered into with the lenders; and
• Has achieved completion of at least 50% of the construction of the infrastructure project.

“SPV” or “Special Purpose Vehicle” means any company or LLP,—

• in which the InvIT holds controlling interest and not less than 50% of the equity share capital.
• 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

‘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 together invest not less than 5% the total offer size of the InvIT.

“Under-Construction Project” means an infrastructure project whether PPP or non-PPP, which has not achieved commercial operation

“InvIT assets” means assets owned by the InvIT, whether directly or through a SPV.

SEBI guidelines on INvit

1. REGISTRATION OF INFRASTRUCTURE INVESTMENT TRUSTS

Any person shall not act as an InvIT unless it has obtained a certificate of registration from the SEBI An application for grant of certificate of registration as InvIT shall be made by the sponsor.

2. ELIGIBILITY CRITERIA

(a) Applicant: Applicant must be a Trust and the Trust deed must be duly registered in India under the provisions of the Registration Act, 1908.

(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 i.e minimum 5 years experience.

(c) **Investment Manager**: The Investment Manager has:-
• Net worth of not less than rupees 10 crore if the investment manager is a body corporate.
• Net tangible assets of value not less than 10 crore rupees in case the investment manager is a limited liability partnership.
• Not less than 5 years’ experience in fund management.
• Not less than 2 employees who have at least 5 years’ experience each, in fund management 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
• 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

(d) **Trustee**: It should be registered with SEBI under SEBI (Debenture Trustees) Regulations, 1993.
(e) No unit holder of the InvIT enjoys preferential voting rights over another unit holder;
(f) There shall not be multiple classes of units of InvITs;
(g) The applicant fit and proper persons.

3. **PROCEDURE FOR GRANT OF CERTIFICATE**

SEBI on being satisfied that the applicant fulfils, the requirements shall send intimation to the applicant and grant certificate of registration

4. **CONDITIONS OF CERTIFICATE**

| The InvIT shall abide by the provisions of the Act and these regulations; |
| The InvIT shall inform the SEBI in writing, if there is any material change in the information already submitted; |
| The InvIT and parties to the InvIT shall satisfy with the eligibility criteria specified in these regulations at all times; |
| The InvIT and parties to the InvIT shall comply with the Code of conduct as specified in these regulations. |

**RIGHTS AND RESPONSIBILITIES OF TRUSTEE**

• The trustee shall hold the InvIT assets in the name of the InvIT for the benefit of the unit holders.
• The trustee shall enter into an investment management agreement with the investment manager.
• The trustee shall oversee activities of the investment manager in the interest of the unit holders.
• The trustee shall ensure that the investment manager complies with reporting and disclosures requirements.
• The trustee shall periodically review the status of unit holders’ complaints.
• The trustee shall ensure that the investment manager convenes meetings of the unit holders.
• In case of any change in investment manager due to removal or otherwise,—
  ~ prior to such change, the trustee shall obtain approval from unit holders
the trustee shall appoint the new investment manager within three months from the date of termination of the earlier investment management agreement;

• In case of any change in the project manager due to removal or otherwise,–
  ~ the trustee shall appoint the new project manager within three months from the date of termination of the earlier project management agreement;

RIGHTS AND RESPONSIBILITIES OF INVESTMENT MANAGER

The investment manager shall:-

• Make the investment decisions with respect to the underlying assets or projects of the InvIT.
• Oversee activities of the project manager with respect to revenue streams from the projects.
• Ensure that the infrastructure assets of the InvIT or SPV have proper legal titles
• in consultation with trustee, appoint the valuer(s), auditor, registrar and transfer agent, merchant banker, custodian and any other intermediary
• Appoint an auditor for a period of not more than five consecutive years.
• Arrange for adequate insurance coverage for the assets of the InvIT.
• Declare distributions to the unit holders in accordance with these regulations.
• Submit to the trustee :-
  ~ quarterly reports on the activities of the InvIT including receipts for all funds received by it and for all payments made

RESPONSIBILITIES OF PROJECT MANAGER

• The project manager shall undertake operations and management of the InvIT assets including making arrangements for the appropriate maintenance.
• If the InvIT invests in under construction projects, the project manager shall,–
  ~ undertake the operations and management of the projects
  ~ oversee the progress of development
• The project manager shall discharge all obligations in respect of achieving timely completion of the infrastructure project,

RIGHTS AND RESPONSIBILITIES OF SPONSOR(S)

• The sponsor(s) shall set up the InvIT and appoint the trustees 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.

RIGHTS AND RESPONSIBILITIES OF THE VALUER AND AUDITOR

• The valuers shall comply with the following conditions at all times,–
  - the valuer shall ensure that the valuation of the InvIT assets is impartial, true and fair
  - 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 conduct valuation of the InvIT assets with transparency and fairness and shall render, at all times, high standards of service
  - the valuer shall not accept remuneration, in any form, for performing a valuation of the InvIT assets from any person other than the InvIT
- the valuer shall not make false, misleading claims in order to secure assignments

- The auditor shall comply with the following conditions at all times,
  - the auditor shall conduct audit of the accounts of the InvIT and draft the audit report based on the accounts examined by him
  - 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 InvIT,
  - the auditor shall have a right of access at all times to the books of accounts and vouchers pertaining to activities of the InvIT;

5. OFFER OF UNITS OF InvIT AND LISTING OF UNITS

ISSUE OF UNITS AND 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 assets held by the InvIT is not less than rupees five hundred crore.
  - The offer size is not less than rupees two hundred fifty crore.

- If the InvIT invests in under-construction projects, value of which is more than ten per cent of the value of the InvIT assets, it shall raise funds,
  - by way of private placement only
  - from qualified institutional buyers and body corporate only, whether Indian or foreign
  - with minimum investment from any investor of rupees one crore;
  - from not less than five and not more than one thousand investors.

- The InvIT shall file the draft placement memorandum for making private placement of units with SEBI

- With respect to InvITs that hold not less than eighty per cent of its assets in completed and revenue generating infrastructure projects,
  - initial issue of units shall be by way of initial offer only;
  - 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
  - minimum subscription from any investor in initial and follow-on offer shall be ten lakh rupees
  - the units proposed to be offered to the public is not less than 25% of the total of the outstanding units of the InvIT
  - prior to initial offer and follow-on offer, the investment manager shall file the draft offer document with the designated stock exchange(s) and SEBI not less than twenty one working days before filing the final offer document with the designated stock exchange;
  - SEBI may communicate its comments to the lead merchant banker
  - initial offer and follow-on offer shall not be open for subscription for a period of more than thirty days;
  - the InvIT shall allot units or refund application money, as the case may be, within twelve working days from the date of closing of the issue;
  - the InvIT shall issue units in only in dematerialized form to all the applicants;
  - the InvIT shall refund money,
    - (a) all applicants in case it fails to collect subscription of atleast 75 % of the issue size.
    - (b) applicants to the extent of over subscription , money shall be refunded to applicants.
    - (c) all applicants in case the number of subscribers to the initial offer forming part of the public is less than 20.

- units may be offered for sale to public,
~ 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
~ subject to other guidelines as may be specified by SEBI.

- If the InvIT fails to make any offer of its units, whether by way of public issue or private placement, within three years from the date of registration with SEBI, it shall surrender its certificate of registration to SEBI and cease to operate as an InvIT.

Guidelines for public issue of units of InvITs

The following are guidelines issued by SEBI for public issue of units of InvITs:

- The Investment Manager on behalf of the InvIT, shall appoint one or more merchant bankers and shall also appoint other intermediaries, in consultation with the lead merchant banker.
- After receipt of comments from public and observations from SEBI, the draft offer document shall be filed with SEBI and the designated stock exchanges.
- In an issue made through the book building process the allocation in the public issue shall be as follows:
  - not more than 75% to Institutional Investors
  - not less than 25% to other investors
- Investment manager on behalf of the InvIT, may allocate up to 60% of the portion available for allocation to Institutional Investors to anchor investors.
- The Investment Manager on behalf of the InvIT, shall deposit, before the opening of subscription, and keep deposited with the stock exchange(s), an amount calculated at the rate of 0.5% of the amount of units offered for subscription to the public or Rs. 5 crore, whichever is lower.
- A public issue shall be kept open for at least three working days but not more than thirty days.
- Where the InvIT desires to have the issue underwritten, it shall appoint the underwriters.

6. OFFER DOCUMENT OR PLACEMENT MEMORANDUM AND ADVERTISEMENTS

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<tr>
<th>the offer document or placement memorandum shall</th>
<th>not be misleading and not contain any untrue statements or misstatements;</th>
<th>not provide for any guaranteed returns to the investors;</th>
<th>include such other disclosures as may be specified by SEBI</th>
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7. LISTING AND 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.
- The InvIT shall redeem units only by way of a buy-back or at the time of delisting of units.
- 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.
- 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.
- Trading lot for the purpose of trading of units on the designated stock exchange shall be five lakh rupees.
8. DELISTING OF UNITS AND WINDING UP OF THE INVIT

- The investment manager shall apply for delisting of units of the InvIT 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 InvIT falls below the limit as prescribed in these regulations.
(c) if there are no projects or assets remaining under the InvIT for a period exceeding six months and InvIT does not propose to invest in any project in future.
(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 these regulations.
(f) unit holders apply for such delisting in accordance with these regulations.
(g) SEBI or the designated stock exchanges require such delisting in the interest of the unit holders.

9. INVESTMENT CONDITIONS, RELATED PARTY TRANSACTIONS, BORROWING AND VALUATION OF ASSETS

INVESTMENT CONDITIONS AND DIVIDEND POLICY

- The investment by an InvIT shall only be in SPVs or infrastructure projects.
- In case of PPP projects, the InvIT shall mandatorily invest in the infrastructure projects through SPV.
- In case of InvITs as specified above in these regulations,
  (a) not less than 80% of the value of the assets shall be invested, proportionate to the holding of the InvITs, in completed and revenue generating infrastructure projects.
  (b) not more than 20% of value of the assets, proportionate to the holding of the InvITs, shall be invested in,
    - Under-construction infrastructure projects. However, investment in such assets shall not exceed ten per cent of the value of the asset.
    - Listed or unlisted debt of companies in infrastructure sector.
    - Government securities;
    - Money market instruments, liquid mutual funds.

- With respect to distributions made by the InvIT and the SPV,

(a) not less than 90% of net distributable cash flows of the SPV shall be distributed to the InvIT in proportion of its holding in the SPV.
(b) not less than 90% of net distributable cash flows of the InvIT 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 in case of publicly offered InvITs and not less than once every year in case of privately placed InvITs and shall be made not later than 15 days from the date of such declaration;

(d) subject to clause (c), such distribution shall be as per the dates and in the manner as mentioned in the offer document or placement memorandum.

- If any infrastructure asset is sold by the InvIT or SPV
  - if the InvIT or SPV proposes to re-invest the sale proceeds into another infrastructure asset, it shall not be required to distribute any sales proceeds to the InvIT or to the investors;
  - if the InvIT or SPV proposes not to invest the sales proceeds into any other infrastructure asset, it shall be require to distribute the same
- If the distributions are not made within fifteen days of declaration, then the investment manager shall be liable to pay interest to the unit holders at the rate of fifteen per cent per annum till the distribution is made
- An InvIT shall not invest in units of other InvITs.
- An InvIT shall not undertake lending to any person. However, investment in debt securities shall not be considered as lending.
- An InvIT shall hold an infrastructure asset for a period of not less than three years from the date of purchase of such asset by the InvIT, directly or through SPV.
- No schemes shall be launched under the InvIT.

RELATED PARTY TRANSACTIONS

- All related party transactions shall be on an arms-length basis in accordance with relevant accounting standards, in the best interest of the unit holders.
- All related party transactions of an InvIT shall be disclosed,–
  - to the designated stock exchanges and unit holders periodically.
- With respect to related party transactions with respect to publicly offered InvITs entered into after initial offer, if,–
  - the total value of all the related party transactions, in a financial year exceeds 5% of the value of InvIT; or
  - the value of the funds borrowed from related parties, in a financial year, exceeds 5% of the total consolidated borrowings of the InvIT,
  approval from the unit holders shall be obtained prior to entering into any such subsequent transaction.

Borrowings and Deferred Payments

- The aggregate consolidated borrowings and deferred payments of the InvIT net of cash and cash equivalents shall never exceed forty nine per cent of the value of the InvIT assets.
VALUATION OF ASSETS

- Full valuation report shall include the mandatory minimum disclosures.
- A full valuation shall be conducted by the valuer not less than once in every financial year, ending March 31st within two months from the date of end of such year.
- A half yearly valuation of the assets of the InvIT shall be conducted by the valuer for the half-year ending September 30th for a publicly offered InvIT.
- Valuation reports received by the investment manager shall be submitted by the investment manager to the designated stock exchanges within fifteen days from the receipt of such valuation reports.

10. RIGHTS AND MEETINGS OF UNIT HOLDERS

1. The unit holder shall have the rights to receive income or distributions.
2. With respect to any matter requiring approval of the unit holders,-
   - the voting may also be done by postal ballot or electronic mode;
   - a notice of not less than twenty one days shall be provided to the unit holders;
3. With respect to publicly offered InvITs,—
   - an annual meeting of all unit holders shall be held not less than once a year within one hundred twenty days from the end of financial year and the time between two meetings shall not exceed fifteen months;
4. In case of,—
   - any approval from unit holders required for
     - investment conditions, related party transactions and valuation of assets.
     - any transaction, which is equal to or greater than twenty five per cent of the InvIT assets;
     - any borrowing in excess of specified limit.
   Approval from unit holders shall be required where votes cast in favour of the resolution shall not be less than one and half times the votes cast against the resolution.
5. In case of,—
   - any change in investment manager
   - any material change in investment strategy
   - the sponsor(s) or investment manager proposing to seek delisting of units of the InvIT.
   Approval from unit holders shall be required where votes cast in favour of the resolution shall not be less than three times the votes cast against the resolution.

11. DISCLOSURES

- A privately placed InvIT shall ensure that the disclosures in the placement memorandum are in accordance with these regulations.
- A publicly offered InvIT shall ensure that the disclosures in the offer document are in accordance with the Schedule III.
- The investment manager of all InvITs shall submit an annual report to all unit holders electronically copies and to the designated stock exchanges within three months from the end of the financial year.
- The investment manager of shall submit a half-yearly report to the designated stock exchange within forty five days from the end of the every half year ending March 31st and September 30th.
- Such annual and half yearly reports shall contain disclosures as specified under Schedule IV.
12. SEBI RIGHT TO INSPECT

SEBI may *suo motu* or upon receipt of information or complaint appoint one or more persons as inspecting officers to undertake inspection of the books of accounts, records and documents relating to activity of the InvIT.

OBLIGATION OF INVIT, PARTIES TO THE INVIT AND ANY OTHER ASSOCIATE PERSONS ON INSPECTION

- It shall be the duty of every InvIT, parties to the InvIT give all such assistance and co-operation as may be required in connection with the inspection to Inspecting officer.
- The inspecting officer shall, for the purposes of inspection, have power to examine on oath and record the statement of any employees and directors of the InvIT.
- The inspecting officer shall, for the purposes of inspection, have power to obtain authenticated copies of documents, books, accounts of InvIT.
PART – A

1. (a) Super mutual fund has launched a scheme named 'Super Bonanza'. The net asset value (NAV) of the scheme is `12.00 per unit. The redemption price is `11.65 per unit and offer price is `12.50 per unit. You are required to calculate —
   (i) Front-end load; and
   (ii) Back-end load.

   (6 marks)

(b) Calculate value of 'rights' from the following information —

   Number of rights shares offered  2,500
   Number of shares held           1,000
   Ex-rights price                 `18
   Rights offer price              `15
   Face value of a share           `10

   (4 marks)

(c) "Factoring is a financial option for the management of receivables." In the light of this statement, explain the meaning and advantages of factoring.

   (5 marks)

**Attempt all parts of either Q.No. 2 or Q.No. 2A**

2. Explain the following :

(a) Credit rating establishes a link between risk and return.

   (3 marks)

(b) Treasury bill is a powerful instrument in the money market.

   (3 marks)

(b) PCS (Practising Company Secretary) certification for SME platform.
(d) All securities in the same class are identical and interchangeable. (3 marks)

(e) Collective investment scheme (CIS) provides a relatively secure means of investing on the stock exchange and other financial instruments. (3 marks)

OR (Alternate question to Q.No. 2)

2A. (i) Private equity fund is an unregistered investment vehicle in which investors pool money to invest. Explain the concept of private equity fund and distinguish it from hedge fund. (5 marks)

(ii) Short selling means selling a stock which the seller does not own at the time of trade. In this context, discuss the broad framework of short selling. (5 marks)

(iii) "Investment advisors provide guidance about financial dealings and investments." Comment on this statement and state the role of investment advisors in capital market. (5 marks)

3. (a) What is 'market-making'? Discuss in brief the obligation of a market-maker. (5 marks)

(b) What is meant by demutualisation of stock exchange? Explain the purpose of demutualisation. (5 marks)

(c) Explain the conditions for issue of shares with differential voting rights by a listed company. (5 marks)

4. (a) Distinguish between the following:

(i) 'Debt market' and 'equity market'.
(ii) 'Listed securities' and 'permitted securities'.
(iii) 'Partly convertible debentures' and 'non-convertible debentures'. (3 marks each)
(b) Explain briefly the following:
(i) Infrastructure debt fund
(ii) Straight through processing (STP).

(3 marks each)

PART – B

5. (a) Kind Enterprises Ltd. has decided to acquire stake upto 25% of the paid-up share capital of Excel Ltd., which is a listed company and wants to proceed with a public offer pursuant to the provisions of the SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 2011. Prepare a Board note highlighting the general obligations of Kind Enterprises Ltd.

(10 marks)

(b) What do you mean by 'reservation on competitive basis'? Who are the persons eligible in case of issue made through book building process?

(5 marks)

(c) Briefly explain the role of a Practising Company Secretary in concurrent audit of depository participants.

(5 marks)

**Attempt all parts of either Q.No. 6 or Q.No. 6A**

6. Comment on the following statements:
(a) Dematerialisation and immobilisation are distinct activities.
(b) Price sensitive information is any information which relates directly or indirectly to a company.
(c) Delisting is not permissible under certain circumstances.
(d) The disclosures requirements on the acquisition of shares of a listed target company beyond certain limits are only on the acquirer and not on the target company.
(e) An institutional placement programme shall be managed by merchant banker(s) registered with SEBI.

(4 marks each)

**OR (Alternate question to Q.No. 6)**

6A. Write notes on the following:
(i) Reconciliation of share capital under Regulation 55A of the SEBI (Depositories and Participants) Regulations, 1996
(ii) Corporate governance compliance certificate
(iii) SCORES
PART – A

1. Attempt the following and support your answer with necessary reason :
   (a) In a particular case, a target company issued 200 lakh warrents @ 100 per warrant to two promoters enabling them to get a right to have equity shares at a later date by paying `50 crore upfront. Assume that such a preferential allotment is made as per the preferential issue guidelines of SEBI. In a takeover bid, the contention before the SEBI is whether these warrants should be treated as partly paid up shares.

   (4Marks)

(b) The Following information has been collected regarding two shares, share-A and Share-B, trading at BSE on 18th September, 2014 :

<table>
<thead>
<tr>
<th>Date</th>
<th>Time</th>
<th>Price</th>
<th>No Of shares traded</th>
</tr>
</thead>
<tbody>
<tr>
<td>18th September, 2014</td>
<td>14:45:10</td>
<td>385.60</td>
<td>550</td>
</tr>
<tr>
<td>18th September, 2014</td>
<td>14:55:35</td>
<td>382.48</td>
<td>1575</td>
</tr>
<tr>
<td>18th September, 2014</td>
<td>15:00:20</td>
<td>380.99</td>
<td>1514</td>
</tr>
<tr>
<td>18th September, 2014</td>
<td>15:01:30</td>
<td>381.79</td>
<td>1625</td>
</tr>
<tr>
<td>18th September, 2014</td>
<td>15:05:40</td>
<td>380.38</td>
<td>1025</td>
</tr>
<tr>
<td>18th September, 2014</td>
<td>15:10:20</td>
<td>381.51</td>
<td>1390</td>
</tr>
<tr>
<td>18th September, 2014</td>
<td>15:20:25</td>
<td>381.42</td>
<td>800</td>
</tr>
<tr>
<td>18th September, 2014</td>
<td>15:22:20</td>
<td>384.07</td>
<td>600</td>
</tr>
<tr>
<td>18th September, 2014</td>
<td>15:25:55</td>
<td>383.74</td>
<td>1200</td>
</tr>
</tbody>
</table>
Share-B

<table>
<thead>
<tr>
<th>Date</th>
<th>Time</th>
<th>Price</th>
<th>No. of shares traded</th>
</tr>
</thead>
<tbody>
<tr>
<td>18th September, 2014</td>
<td>14:07:30</td>
<td>50.60</td>
<td>250</td>
</tr>
<tr>
<td>18th September, 2014</td>
<td>14:11:40</td>
<td>52.10</td>
<td>585</td>
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<td>18th September, 2014</td>
<td>14:16:20</td>
<td>49.85</td>
<td>700</td>
</tr>
<tr>
<td>18th September, 2014</td>
<td>14:26:25</td>
<td>51.25</td>
<td>425</td>
</tr>
<tr>
<td>18th September, 2014</td>
<td>14:45:10</td>
<td>50.75</td>
<td>450</td>
</tr>
<tr>
<td>18th September, 2014</td>
<td>14:55:35</td>
<td>49.95</td>
<td>500</td>
</tr>
</tbody>
</table>

You are required to determine the closing prices and last traded prices for both the shares for 18th September, 2014

(c) An Enquiry Officer Appointed by SEBI found evidence that a particular mutual fund was indulging in short- selling and buying- selling of derivatives products for speculative purposes.

(i) Can the mutual fund be held liable for violation of any provision/rule laid down by the SEBI in this regard?

(ii) If yes, then what kind of penalties can be imposed by the enquiry officer on the mutual fund?

(6 marks)

(b) Government is an active player in the money market and in most of the economies it constitutes the biggest borrower in the market.” In the light of this statement, explain the role treasury bill.

(c) On 25th January, 2013, XY Bank purchased a 91-day treasury bill maturing on 16th March, 2013. The rate quoted by the seller is 99.25 per 100 face value. Compute the yield percentage of the treasury bill.

 Attempt all parts of either Q.No. 2A

2. a) “The mutual funds has emerged as one of the important class of financial intermediaries which cater to the needs of retail investors.” Discuss.

b) Government is an active player in the money market and in most of the economies it constitutes the biggest borrower in the market.” In the light of this statement, explain the role treasury bill.

c) On 25th January, 2013, XY Bank purchased a 91-day treasury bill maturing on 16th March, 2013. The rate quoted by the seller is 99.25 per 100 face value. Compute the yield percentage of the treasury bill.
OR (Alternate Question to Q.No.2)

2A. (i) An Indian company is planning to issue sweat equity shares of a class of a shares already issued. Explain the meaning of sweat equity and advice the company regarding the condition to be fulfilled to issue sweat equity.

(ii) what do you understand by IOSCO? Briefly

(iii) the following information is given:

- No. of right shares offered : 6000
- No. of shares held : 3000
- Ex-right price : 32
- Right offer price : 25
- Face value of shares : 10

You are required to compute the value of rights

3. a) “As India is a preferred investment destination among international investors, the government of India has introduced Indian Depository Receipts (IDRs) to facilitate listing by foreign companies on Indian stock exchange.” Elaborate and discuss the process involved in issuing IDRs.

b) “An individual cannot start a venture capital fund but a trust or a company can.” In the light of this statement, list down the eligibility criteria for getting registered with SEBI as venture capital fund.

c) Both foreign currency exchangeable bonds (FCEBs) and foreign currency convertible bonds (FCCBs) are convertible into equity shares.” Since both are convertible into equity shares. You are required to highlight the advantages of FCEBs over FCCBs

4. a) Distinguish between the following:
(i) ‘Pay-in’ and ‘Pay-out.
(ii) ‘Certificate of deposits’ and ‘inter-corporate deposits’.
(iii) ‘French auction’ and ‘Dutch auction’.

(3 marks)

b) Explain briefly the following:
   (i) Two-way fungibility scheme
   (ii) Investible fund.

(3 marks)

5. a) Sunil, Company Secretary and Executive Director of a company, had bought shares of that company on behalf of his family members on the basis of unpublished price sensitive information, which was not known to general public but to him as an employee of the company.

   Family members later on tendered the said shares in an open offer announced by some acquiring company at a higher price, thereby making huge gains. The SEBI found Sunil guilty of misconduct of insider trading and imposed penalty. Sunil admitted that he had made a mistake but contested the penalty. He, however, was willing to pay back the profit earned by sale of shares.

   Considering the fact of the case, you are required to suggest whether as per the relevant legal provisions relating to insider trading, the SEBI should waive the penalty considering the fact that Sunil admits indulging in insider trading and is willing to pay back the whole profit earned.

(8 marks)

b) Explain the mechanism of offer for sale (OFS) through secondary market settlement.

(4 marks)

c) Critically comment on the following:
   (i) A ‘stock broker’ or a ‘sub-broker’ shall not be liable for prosecution under the SEBI Act, 1992 for any violation.
   (ii) Good governance in capital market has always been high on the agenda of SEBI.

(4 marks each)

Attempt all parts of either Q.No. 6 or Q.No. 6A

6. a) The shares of Runfast Ltd. were listed in Delhi Stock Exchange. The stock exchange delisted the shares of the company. The aggrieved company approaches you as a Company Secretary in practice to know the remedy available to the company. Give your suggestions to the company keeping in view the provisions of the company. Give your suggestions to the company keeping in view the provisions of the Security Contacts (Regulation) Act, 1956.
b) “Securities Appellate Tribunal (SAT) shall have the same power as are vested in a civil court, for the purpose of discharging its functions.” In the light of this statement, state the power vested in SAT as a civil court.

(5 marks)

c) As an aggrieved party, how do you lodge complaint in SCROES?

(5 marks)

OR (Alternate question to Q.No.6)

6A. (i) Comment on the following statements:
   a) “The depository system functions very much like the banking system.”
   b) “A company shall specify a trading period for trading in its own securities.”

(4 marks each)

(ii) Write notes on the following:
   a) Spot delivery contract
   b) In-person verification
   c) Conditional offer.

(4 marks each)