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SECURITIES AND EXCHANGE BOARD OF INDIA

NOTIFICATION

Mumbai, the 14th August, 2017

SECURITIES AND EXCHANGE BOARD OF INDIA (ISSUE OF CAPITAL AND DISCLOSURE REQUIREMENTS) (FOURTH AMENDMENT) REGULATIONS, 2017

No. SEBI/LAD-NRO/GN/2017-18/016. —In exercise of the powers conferred under section 30 of the Securities and Exchange Board of India Act, 1992 (15 of 1992), the Board hereby makes the following Regulations to further amend the Securities and Exchange Board of India (Issue of Capital and Disclosure Requirements) Regulations, 2009, namely:-

1. These regulations may be called the Securities and Exchange Board of India (Issue of Capital and Disclosure Requirements) (Fourth Amendment) Regulations, 2017.
2. They shall come into force on the date of their publication in the Official Gazette.

3. In the Securities and Exchange Board of India (Issue of Capital and Disclosure Requirements) Regulations, 2009, in regulation 70, -

(i) in sub-regulation (1), in clause (c), after the words and figure “Sick Industrial Companies (Special Provisions) Act, 1985 or” and before the words “the Tribunal”, the words “theresolution plan approved by” shall be inserted.

(ii) the existing sub-regulation (5) shall be substituted by the following new sub-regulation, namely, -

“(5) The provisions of this Chapter shall not apply where the preferential issue of specified securities is made to the lenders pursuant to conversion of their debt, as part of a debt restructuring scheme implemented in accordance with the guidelines specified by the Reserve Bank of India, subject to the following conditions:

(a) the guidelines for determining the conversion price have been specified by the Reserve Bank of India in accordance with which the conversion price shall be determined and which shall be in compliance with the applicable provisions of the Companies Act, 2013;

(b) the conversion price shall be certified by two independent qualified valuers, and for this purpose ‘valuer’ shall be a person who is registered under section 247 of the Companies Act, 2013 and the relevant Rules framed thereunder:

Provided that till such date on which section 247 of the Companies Act, 2013 and the relevant Rules come into force, valuer shall mean an independent merchant banker registered with the Board or an independent chartered accountant in practice having a minimum experience of ten years;

(c) specified securities so allotted shall be locked-in for a period of one year from the date of their allotment:

Provided that for the purpose of transferring the control, the lenders may transfer the specified securities allotted to them before completion of the lock-in period subject to continuation of the lock-in on such securities for the remaining period, with the transferee;

- (d) the lock-in of equity shares allotted pursuant to conversion of convertible securities issued on preferential basis shall be reduced to the extent the convertible securities have already been locked-in;
- (e) the applicable provisions of the Companies Act, 2013 are complied with, including the requirement of special resolution.”

(iii) the existing sub-regulation (6) shall be substituted by the following new sub-regulation, namely, -

“(6) The provisions of this Chapter shall not apply where the preferential issue, if any, of specified securities is made to person(s) at the time of lenders selling their holding of specified securities or enforcing change in ownership in favour of such person(s) pursuant to a debt restructuring scheme implemented in accordance with the guidelines specified by the Reserve Bank of India, subject to the following conditions:

- (a) the guidelines for determining the issue price have been specified by the Reserve Bank of India in accordance with which the issue price shall be determined and which shall be in compliance with the applicable provisions of the Companies Act, 2013;
- (b) the issue price shall be certified by two independent qualified valuers, and for this purpose ‘valuer’ shall be a person who is registered under section 247 of the Companies Act, 2013 and the relevant Rules framed thereunder:

Provided that till such date on which section 247 of the Companies Act, 2013 and the relevant Rules come into force, valuer shall mean an independent merchant banker registered with the Board or an independent chartered accountant in practice having a minimum experience of ten years;

- (c) the specified securities so allotted shall be locked-in for a period of at least three years from the date of their allotment;
- (d) the lock-in of equity shares allotted pursuant to conversion of convertible securities issued on preferential basis shall be reduced to the extent the convertible securities have already been locked-in;
- (e) a special resolution has been passed by shareholders of the issuer before the preferential issue;

- (f) the issuer shall, in addition to the disclosures required under the Companies Act, 2013 or any other applicable law, disclose the following information pertaining to the proposed allottee(s) in the explanatory statement to the notice for the general meeting proposed for passing the special resolution as stipulated at clause (e) of this sub-regulation:
- a. the identity including that of the natural persons who are the ultimate beneficial owners of the shares proposed to be allotted and/ or who ultimately control the proposed allottee(s);
 - b. the business model;
 - c. a statement on growth of business over the period of time;
 - d. summary of audited financials of previous three financial years;
 - e. track record in turning around companies, if any;
 - f. the proposed roadmap for effecting turnaround of the issuer.
- (g) the applicable provisions of the Companies Act, 2013 are complied with.”

Sd/-

AJAY TYAGI
CHAIRMAN

SECURITIES AND EXCHANGE BOARD OF INDIA

Footnote:

1. The SEBI (Issue of Capital and Disclosure Requirements) Regulations, 2009 were published in the Gazette of India on 26th August, 2009 vide No. LAD-NRO/GN/2009- 10/15/174471.

2. The SEBI (Issue of Capital and Disclosure Requirements) Regulations, 2009 were subsequently amended on:-

- (1) 11th December, 2009 by Securities and Exchange Board of India (Issue of Capital and Disclosure Requirements) (Amendment) Regulations, 2009 vide No. LAD-NRO/GN/2009- 10/23/186926.
- (2) 1st January, 2010 by Securities and Exchange Board of India (Issue of Capital and Disclosure Requirements) (Amendment) Regulations, 2010 vide No. LAD-NRO/GN/2009- 2010/25/189240.
- (3) 8th January, 2010 by Securities and Exchange Board of India (Issue of Capital and Disclosure Requirements) (Second Amendment) Regulations, 2010 vide No. LADNRO/GN/2009- 10/26/190146.
- (4) 13th April, 2010 by Securities and Exchange Board of India (Issue of Capital and Disclosure Requirements) (Third Amendment) Regulations, 2010 vide No. LADNRO/GN/2010-11/03/1104.
- (5) 12th November, 2010 by Securities and Exchange Board of India (Issue of Capital and Disclosure Requirements) (Fourth Amendment) Regulations, 2010 vide No. LADNRO/GN/2010-11/19/26456.
- (6) 29th April, 2011 by Securities and Exchange Board of India (Issue of Capital and Disclosure Requirements) (Amendment) Regulations, 2011 vide F. No. LADNRO/GN/2011-12/05/13907.
- (7) 23rd September, 2011 by Securities and Exchange Board of India (Substantial Acquisition of Shares and Takeovers) Regulations, 2011 vide No. LAD-NRO/GN/2011-12/24/30181.
- (8) 23rd September, 2011 by Securities and Exchange Board of India (Issue of Capital and Disclosure Requirements) (Second Amendment) Regulations, 2011 vide F. No. LADNRO/GN/2011- 12/25/30309.
- (9) 30th January, 2012 by Securities and Exchange Board of India (Issue of Capital and Disclosure Requirements) (Amendment) Regulations, 2012 vide No. LAD-NRO/GN/2011-12/34/2499.
- (10) 7th February, 2012 by Securities and Exchange Board of India (Issue of Capital and Disclosure Requirements) (Second Amendment) Regulations, 2012 vide No. LAD-NRO/GN/2011-12/35/3186.

- (11) 21st May, 2012 by Securities and Exchange Board of India (Alternative Investment Funds) Regulations, 2012 vide No. LAD-NRO/GN/2012-13/04/11262.
- (12) 24th August, 2012 by Securities and Exchange Board of India (Issue of Capital and Disclosure Requirements) (Third Amendment) Regulations, 2012 vide No. LADNRO/GN/2012-13/12/18951.
- (13) 12th October, 2012 by Securities and Exchange Board of India (Issue of Capital and Disclosure Requirements) (Fourth Amendment) Regulations, 2012 vide No. LADNRO/GN/2012-13/18/5391.
- (14) 27th February, 2013 by Securities and Exchange Board of India (Issue of Capital and Disclosure Requirements)(Amendment) Regulations, 2013 vide No. LAD-NRO/GN/2012-13/32/4947.
- (15) 26th August, 2013 by Securities and Exchange Board of India (Issue of Capital and Disclosure Requirements)(Second Amendment) Regulations, 2013 vide No. LAD-NRO/GN/2013-14/19/6422.
- (16) 8th October, 2013 by Securities and Exchange Board of India (Listing of Specified Securities on Institutional Trading Platform) Regulations, 2013 vide No. LAD-NRO/GN/2013-14/28/6720.
- (17) 7th January, 2014 by Securities and Exchange Board of India (Foreign Portfolio Investors) Regulations, 2014 vide No. LAD-NRO/GN/2013-14/36/12.
- (18) 4th February, 2014 by Securities and Exchange Board of India (Issue of Capital and Disclosure Requirements) (Amendment) Regulations, 2014 vide No. LAD-NRO/GN/2013-14/44/226.
- (19) 23rd May, 2014 by Securities and Exchange Board of India (Payment of Fees) (Amendment) Regulations, 2014 vide No. LAD-NRO/GN/2014-15/03/1089.
- (20) 25th August, 2014 by Securities and Exchange Board of India (Issue of Capital and Disclosure Requirements) (Second Amendment) Regulations, 2014 vide No. LAD-NRO/GN/2014-15/06/1372.
- (21) 24th March 2015 by Securities and Exchange Board of India (Issue of Capital and Disclosure Requirements) (Amendment) Regulations, 2015 vide No. LAD-NRO/GN/2014-15/24/538.

- (22) 5th May, 2015 by SEBI (Issue of Capital and Disclosure Requirements) (Second Amendment) Regulations, 2015 vide No. SEBI-NRO/OIAE/GN/2015-16/003.
- (23) 11th August, 2015 by SEBI (Issue of Capital and Disclosure Requirements) (Third Amendment) Regulations, 2015 vide No. SEBI/LAD-NRO/GN/2015-16/007.
- (24) 14th August, 2015 by SEBI (Issue of Capital and Disclosure Requirements) (Fourth Amendment) Regulations, 2015 vide No. SEBI/LAD-NRO/GN/2015-16/008.
- (25) 14th August, 2015 by SEBI (Issue of Capital and Disclosure Requirements) (Fifth Amendment) Regulations, 2015 vide No. SEBI/LAD-NRO/GN/2015-16/012.
- (26) 2nd September, 2015 by Securities and Exchange Board of India (Listing Obligations and Disclosure Requirements) Regulations, 2015 vide No. SEBI/LAD-NRO/GN/2015- 16/013.
- (27) 10th September, 2015 by SEBI (Issue of Capital and Disclosure Requirements) (Sixth Amendment) Regulations, 2015 vide No. SEBI/LAD-NRO/GN/2015-16/18.
- (28) 27th October, 2015 by SEBI (Issue of Capital and Disclosure Requirements) (Seventh Amendment) Regulations, 2015 vide No. SEBI/ LAD-NRO/GN/2015-16/025.
- (29) 21st January, 2016 by SEBI (Issue of Capital and Disclosure Requirements) (Amendment) Regulations, 2016 vide No. SEBI/ LAD-NRO/GN/2015-16/031.
- (30) 17th February, 2016 by SEBI (Issue of Capital and Disclosure Requirements) (Second Amendment) Regulations, 2016 vide No. SEBI/ LAD-NRO/GN/2015-16/036.
- (31) 25th May, 2016 by SEBI (Issue of Capital and Disclosure Requirements) (Third Amendment) Regulations, 2016 vide No. SEBI/ LAD-NRO/GN/2016-17/003.
- (32) 30th November, 2016 by SEBI (Issue of Capital and Disclosure Requirements) (Fourth Amendment) Regulations, 2016 vide No. SEBI/ LAD-NRO/GN/2016-17/017.
- (33) 15th February, 2017 by SEBI (Issue of Capital and Disclosure Requirements) (Amendment) Regulations, 2017 vide No. SEBI/LAD/NRO/GN/2016-17/030.
- (34) 6th March, 2017 by SEBI (Payment of Fees and Mode of Payment) (Amendment) Regulations, 2017 vide No. SEBI/LAD/NRO/GN/2016-17/037 read with notification dated 29th of March, 2017 vide No. SEBI/LAD/NRO/GN/2016-17/38.

(35) 31st May, 2017 by SEBI (Issue of Capital and Disclosure Requirements) (Second Amendment) Regulations, 2017 vide No. SEBI/LAD/NRO/GN/2017-18/06.

(36) 31st July, 2017 by SEBI (Issue of Capital and Disclosure Requirements) (Third Amendment) Regulations, 2017 vide No. SEBI/LAD-NRO/GN/2017-18/014.
