

CIRCULAR

CIR/CFD/POLICY CELL/2/2015

June 16, 2015

To
All Recognised Stock Exchanges

Dear Sir/Madam,

Sub: Requirements specified under the SEBI (Share Based Employee Benefits) Regulations, 2014

1. This has reference to the SEBI (Share Based Employee Benefits) Regulations, 2014 ("the Regulations") notified on October 28, 2014. The Regulations provide for certain processes / disclosure requirements to be specified by SEBI. Accordingly, necessary guidelines are being issued and given in the **Annexure** to this circular.
2. The stock exchanges are advised to bring the contents of this circular to the notice of the companies listed on them and ensure its compliance.
3. This circular is being issued in exercise of the powers under regulation 28 of the Regulations and section 11 read with section 11A of the Securities and Exchange Board of India Act, 1992.
4. This circular is available on SEBI website at www.sebi.gov.in under the categories "Legal Framework" and "Issues and Listing".

Yours faithfully,

Amit Tandon
Deputy General Manager
+91-22-26449373
amitt@sebi.gov.in

Requirements under the SEBI (Share Based Employee Benefits) Regulations, 2014

Regulation 3(3) - Minimum Provisions in Trust Deed

The trust deed shall, *inter alia*, cover the following:

1. Details of the trust, including:
 - (i) Name of the trust;
 - (ii) Object of the trust;
 - (iii) Details of settlor;
 - (iv) Details of scheme(s) administered;
 - (v) Source of funds;
 - (vi) Description of the manner in which the trust funds shall be used for meeting object of the trust;
 - (vii) Description of the classes of beneficiaries along with their rights and obligations;
 - (viii) Details of trustee(s);
2. Powers and duties of trustee(s), including:
 - (i) Frame rules for administration of the scheme(s) in compliance with the scheme documents, object of the trust and the regulations;
 - (ii) Maintain books of accounts of trust as required under law including the regulations;
3. Provisions on dissolution of the trust;
4. Trust deed shall provide that it would be the duty of the trustees to act in the interest of employees who are beneficiaries of the trust and subject to provisions of the regulations, it shall not act in any manner or include any provision in the trust deed that would be detrimental to the interests of the beneficiaries.
5. Such other clauses which are necessary for safeguarding the interests of the beneficiaries.

Regulation 5(3) - Terms and Conditions of schemes to be formulated by the Compensation Committee

The Compensation Committee is required to formulate the detailed terms and conditions of the schemes which shall, *inter alia*, include the following provisions:

- a. the quantum of option, SAR, share or benefit as the case may be, per employee and in aggregate under a scheme;
- b. the kind of benefits to be granted under a scheme covered by Part D and Part E of Chapter III of the regulations;
- c. the conditions under which options, SAR, shares or other benefits as the case may be, may vest in employees and may lapse in case of termination of employment for misconduct;
- d. the exercise period within which the employee can exercise the options or SARs and that options or SARs would lapse on failure to exercise the same within the exercise period;
- e. the specified time period within which the employee shall exercise the vested options or SARs in the event of termination or resignation of an employee;
- f. the right of an employee to exercise all the options or SARs, as the case may be, vested in him at one time or at various points of time within the exercise period;
- g. the procedure for making a fair and reasonable adjustment to the entitlement including adjustment to the number of options/SARs and to the exercise price in case of corporate actions such as rights issues, bonus issues, merger, sale of division and others. In this regard, the following shall, *inter alia*, be taken into consideration by the compensation committee:
 - i. the number and price of options / SARs shall be adjusted in a manner such that total value to the employee of the options / SAR remains the same after the corporate action;
 - ii. the vesting period and the life of the options / SAR shall be left unaltered as far as possible to protect the rights of the employee(s) who is granted such options / SARs;
- h. the grant, vesting and exercise of shares, options or SARs in case of employees who are on long leave;
- i. eligibility to avail benefits under schemes covered by Part D and/or Part E of Chapter III of the regulations in case of employees who are on long leave; and
- j. the procedure for cashless exercise of options / SARs.

Regulation 6(2) - Contents of the explanatory statement to the notice and resolution for shareholders meeting

The explanatory statement to the notice and the resolution proposed to be passed for the schemes in general meeting shall, *inter alia*, contain the following information:

- a. brief description of the scheme(s);
- b. the total number of options, SARs, shares or benefits, as the case may be, to be granted;
- c. identification of classes of employees entitled to participate and be beneficiaries in the scheme(s);
- d. requirements of vesting and period of vesting;
- e. maximum period (subject to regulation 18(1) and 24(1) of the regulations, as the case may be) within which the options / SARs / benefit shall be vested;
- f. exercise price, SAR price, purchase price or pricing formula;
- g. exercise period and process of exercise;
- h. the appraisal process for determining the eligibility of employees for the scheme(s);
- i. maximum number of options, SARs, shares, as the case may be, to be issued per employee and in aggregate;
- j. maximum quantum of benefits to be provided per employee under a scheme(s);
- k. whether the scheme(s) is to be implemented and administered directly by the company or through a trust;
- l. whether the scheme(s) involves new issue of shares by the company or secondary acquisition by the trust or both;
- m. the amount of loan to be provided for implementation of the scheme(s) by the company to the trust, its tenure, utilization, repayment terms, etc.;
- n. maximum percentage of secondary acquisition (subject to limits specified under the regulations) that can be made by the trust for the purposes of the scheme(s);
- o. a statement to the effect that the company shall conform to the accounting policies specified in regulation 15;
- p. the method which the company shall use to value its options or SARs;
- q. the following statement, if applicable:
'In case the company opts for expensing of share based employee benefits using the intrinsic value, the difference between the employee compensation cost so computed and the employee compensation cost that shall have been recognized if it had used the fair value, shall be disclosed in the Directors' report and the impact of this difference on profits and on earnings per share ("EPS") of the company shall also be disclosed in the Directors' report.'

Regulation 10(b) - Information required in the statement to be filed with Stock Exchange(s)

Description of Schemes

- 1 Authorized Share Capital of the Company.
- 2 Issued Share Capital of the Company as on date of Institution of the scheme/ amendment of the scheme.
- 3 Date of institution of the scheme/ amendment of the scheme.
- 4 Validity period of the scheme.
- 5 Date of notice of AGM/EGM for approving the scheme/for amending the scheme/for approving grants under regulation 6(3) of the SEBI (Share Based Employee Benefits) Regulations, 2014.
- 6 Date of AGM/EGM approving the scheme/amending the scheme/approving grants under regulation 6(3) of the SEBI (Share Based Employee Benefits) Regulations, 2014.
- 7 Kind of benefit granted under the scheme.
- 8 Identity of classes of persons eligible under the scheme:
 - a. Permanent employees
 - b. Permanent employees outside India
 - c. Permanent employees of subsidiary
 - d. Permanent employees of holding company
 - e. Permanent employees of associate company
 - f. Whole-time directors
- 9 Total number of shares reserved under the scheme, as applicable.
- 10 Number of shares entitled under the grant.
- 11 Total number of grants to be made.
- 12 Maximum number of shares, options, SARs or benefits to be granted per employee per grant and in aggregate.
- 13 Exercise price or pricing formula.
- 14 Whether any amount payable at the time of grant? If so, quantum of such amount.
- 15 Lock-in period under the scheme.
- 16 Vesting period under the scheme.
- 17 Maximum period within which the grant shall be vested.
- 18 Exercise period under the scheme.
- 19 Whether employee can exercise all the options or SARs vested at one time? Yes/No
- 20 Whether employee can exercise vested options or SARs at various points of time within the exercise period? Yes/No
- 21 Whether scheme provides for the procedure for making a fair and reasonable adjustment to the number of options or SARs and to the exercise price in case of rights issues, bonus issues and other corporate actions? Clause in scheme describing such adjustment.
- 22 Description of the appraisal process for determining the eligibility of employees under the scheme.

- 23 The specified time period within which vested options or SARs are to be exercised in the event of termination or resignation of an employee.
- 24 The specified time period within which options or SARs to be exercised in the event of death of the employee.
- 25 Whether scheme provides for conditions under which options, SARs, or benefits vested in employees may lapse in case of termination of employment for misconduct? Clause in Scheme describing such adjustment.
- 26 Whether scheme provides for conditions for the grant, vesting and exercise of options, SARs or benefits in case of employees who are on long leave? Clause in scheme describing such adjustment.
- 27 Whether amount paid/payable by the employee at the time of the grant of the options, SARs or benefits will be forfeited if the employee does not exercise the same within the exercise period? Clause in scheme describing such adjustment.
- 28 Details of approval of shareholders pursuant to regulation 6(3) of the SEBI (Share Based Employee Benefits) Regulations, 2014 with respect to:
 - a. Grant to employees of subsidiary or holding or associate company.
 - b. Grant to identified employees, during any one year, equal to or exceeding 1% of the issued capital (excluding outstanding warrants and conversions) of the company at the time of grant.
- 29 Details of the variation made to the scheme along with the rationale therefor and the details of the employees who are beneficiary of such variation:

Sd/-

Company Secretary

Place:

Date:

Documents to be filed with registration statement

- 1 Copy of scheme, certified by the Company Secretary.
- 2 Copy of notice of AGM/EGM approving the scheme/for amending the scheme/for approving grants under regulation 6(3) of the SEBI (Share Based Employee Benefits) Regulations, 2014, certified by the Company Secretary.
- 3 Copy of resolution of shareholders for approving the scheme/ for amending the scheme/for approving grants under regulation 6(3) of the SEBI (Share Based Employee Benefits) Regulations, 2014, certified by the Company Secretary.
- 4 List of Promoters as defined under the SEBI (Share Based Employee Benefits) Regulations, 2014.
- 5 Copy of latest Annual Report.
- 6 Certificate of Auditor on compliance with of the SEBI (Share Based Employee Benefits) Regulations, 2014.
- 7 Specimen copy of share certificate.
- 8 Any other relevant documents.

Undertakings

The undersigned company hereby undertakes:

- 1 To file, a post-effective amendment to this statement to include any material information with respect to the scheme of distribution not previously disclosed in the statement or any material change to such information in the statement.
- 2 To notify, the concerned stock exchanges on which the shares of the company are listed, of each issue of shares pursuant to the exercise of options or SARs under the scheme mentioned in this statement, in the prescribed form, as amended from time to time.
- 3 That the company shall conform to the accounting policies specified in regulation 15 of the SEBI (Share Based Employee Benefits) Regulations, 2014.
- 4 That the scheme conforms to the SEBI (Share Based Employee Benefits) Regulations, 2014.
- 5 That the company has in place systems / codes / procedures to comply with the SEBI (Prohibition of Insider Trading) Regulations, 1992 or any modification or re-enactment thereto.

Signatures

1. Pursuant to the requirements of the SEBI Act / Regulations, the company certifies that it has reasonable grounds to believe that it meets all the requirements for the filing of this form and has duly caused this statement to be signed on its behalf by the undersigned, thereunto, duly authorized

Name of the company

Sd/-

Name of the Compliance Officer

Designation

Date:

Place:

2. Certification by Registered Merchant Banker, pursuant to regulation 12(6) of the SEBI (Share Based Employee Benefits) Regulations, 2014:

“Certified that the scheme conforms to the SEBI (Share Based Employee Benefits) Regulations, 2014.”

Date:

Authorised Signatory

Place:

Name of the Merchant Banker

Regulation 10(c) - Format of notification for issue of shares

1. Company name and address of Registered Office :
2. Name of the Stock Exchanges on which the company's shares are listed :
3. Filing date of the statement referred in regulation 10(b) of the SEBI (Share Based Employee Benefits) Regulations, 2014 with Stock Exchange:
4. Filing Number, if any :
5. Title of the Scheme pursuant to which shares are issued, if any:
6. Kind of security to be listed :
7. Par value of the shares :
8. Date of issue of shares :
9. Number of shares issued :
10. Share Certificate No., if applicable :
11. Distinctive number of the share, if applicable :
12. ISIN Number of the shares if issued in Demat :
13. Exercise price per share:
14. Premium per share :
15. Total Issued shares after this issue :
16. Total Issued share capital after this issue :
17. Details of any lock-in on the shares :
18. Date of expiry of lock-in :
19. Whether shares identical in all respects to existing shares if not, when will they become identical? :
20. Details of listing fees, if payable :

Signature of Company Secretary/Compliance Officer

Date:

Place:

Regulation 14 - Disclosures by the board of directors

The board of directors in their report shall disclose any material change in the scheme(s) and whether the scheme(s) is / are in compliance with the regulations.

Further, the following details, *inter alia*, shall be disclosed on the company's website and a web-link thereto shall be provided in the report of board of directors.

- A.** Relevant disclosures in terms of the 'Guidance note on accounting for employee share-based payments' issued by ICAI or any other relevant accounting standards as prescribed from time to time.
- B.** Diluted EPS on issue of shares pursuant to all the schemes covered under the regulations shall be disclosed in accordance with 'Accounting Standard 20 - Earnings Per Share' issued by ICAI or any other relevant accounting standards as prescribed from time to time.

C. Details related to ESOS

- (i) A description of each ESOS that existed at any time during the year, including the general terms and conditions of each ESOS, including -
 - (a) Date of shareholders' approval
 - (b) Total number of options approved under ESOS
 - (c) Vesting requirements
 - (d) Exercise price or pricing formula
 - (e) Maximum term of options granted
 - (f) Source of shares (primary, secondary or combination)
 - (g) Variation in terms of options
- (ii) Method used to account for ESOS - Intrinsic or fair value.
- (iii) Where the company opts for expensing of the options using the intrinsic value of the options, the difference between the employee compensation cost so computed and the employee compensation cost that shall have been recognized if it had used the fair value of the options shall be disclosed. The impact of this difference on profits and on EPS of the company shall also be disclosed.

- (iv) Option movement during the year (For each ESOS):

| Particulars | Details |
|---|---------|
| Number of options outstanding at the beginning of the period | |
| Number of options granted during the year | |
| Number of options forfeited / lapsed during the year | |
| Number of options vested during the year | |
| Number of options exercised during the year | |
| Number of shares arising as a result of exercise of options | |
| Money realized by exercise of options (INR), if scheme is implemented directly by the company | |
| Loan repaid by the Trust during the year from exercise price received | |
| Number of options outstanding at the end of the year | |
| Number of options exercisable at the end of the year | |

- (v) Weighted-average exercise prices and weighted-average fair values of options shall be disclosed separately for options whose exercise price either equals or exceeds or is less than the market price of the stock.
- (vi) Employee wise details (name of employee, designation, number of options granted during the year, exercise price) of options granted to -
- senior managerial personnel;
 - any other employee who receives a grant in any one year of option amounting to 5% or more of option granted during that year; and
 - identified employees who were granted option, during any one year, equal to or exceeding 1% of the issued capital (excluding outstanding warrants and conversions) of the company at the time of grant.
- (vii) A description of the method and significant assumptions used during the year to estimate the fair value of options including the following information:

- (a) the weighted-average values of share price, exercise price, expected volatility, expected option life, expected dividends, the risk-free interest rate and any other inputs to the model;
- (b) the method used and the assumptions made to incorporate the effects of expected early exercise;
- (c) how expected volatility was determined, including an explanation of the extent to which expected volatility was based on historical volatility; and
- (d) whether and how any other features of the option grant were incorporated into the measurement of fair value, such as a market condition.

Disclosures in respect of grants made in three years prior to IPO under each ESOS

- (i) Until all options granted in the three years prior to the IPO have been exercised or have lapsed, disclosures of the information specified above in respect of such options shall also be made.

D. Details related to ESPS

- (i) The following details on each ESPS under which allotments were made during the year:
 - (a) Date of shareholders' approval
 - (b) Number of shares issued
 - (c) The price at which such shares are issued
 - (d) Lock-in period
- (ii) The following details regarding allotment made under each ESPS, as at the end of the year :

| Particulars | Details |
|---|---------|
| The details of the number of shares issued under ESPS | |
| The price at which such shares are issued | |
| Employee-wise details of the shares issued to; <ul style="list-style-type: none"> (i) senior managerial personnel; (ii) any other employee who is issued shares | |

| | |
|---|--|
| in any one year amounting to 5% or more shares issued during that year; (iii) identified employees who were issued shares during any one year equal to or exceeding 1% of the issued capital of the company at the time of issuance; | |
| Consideration received against the issuance of shares, if scheme is implemented directly by the company | |
| Loan repaid by the Trust during the year from exercise price received | |

E. Details related to SAR

- (i) A description of each SAR scheme that existed at any time during the year, including the general terms and conditions of each SAR scheme, including -
 - (a) Date of shareholders' approval
 - (b) Total number of shares approved under the SAR scheme
 - (c) Vesting requirements
 - (d) SAR price or pricing formula
 - (e) Maximum term of SAR granted
 - (f) Method of settlement (whether in cash or equity)
 - (g) Choice of settlement (with the company or the employee or combination)
 - (h) Source of shares (primary, secondary or combination)
 - (i) Variation in terms of scheme
- (ii) Method used to account for SAR - Intrinsic or fair value.
- (iii) Where the company opts for expensing of SAR using the intrinsic value of SAR, the difference between the employee compensation cost so computed and the employee compensation cost that shall have been recognized if it had used the fair value of SAR, shall be disclosed. The impact of this difference on profits and on EPS of the company shall also be disclosed.

- (iv) SAR movement during the year (For each SAR scheme):

| Particulars | Details |
|---|---------|
| Number of SARs outstanding at the beginning of the year | |
| Number of SARs granted during the year | |
| Number of SARs forfeited / lapsed during the year | |
| Number of SARs vested during the year | |
| Number of SARs exercised / settled during the year | |
| Number of SARs outstanding at the end of the year | |
| Number of SARs exercisable at the end of the year | |

- (v) Employee-wise details (name of employee, designation, number of SAR granted during the year, exercise price) of SAR granted to -
- (a) senior managerial personnel;
 - (b) any other employee who receives a grant in any one year of amounting to 5% or more of SAR granted during that year; and
 - (c) identified employees who were granted SAR, during any one year, equal to or exceeding 1% of the issued capital (excluding outstanding warrants and conversions) of the company at the time of grant.

Disclosures in respect of grants made in three years prior to IPO under each SAR scheme

- (i) Until all SARs granted in the three years prior to the IPO have been exercised or have lapsed, disclosures of the information specified above in respect of such SARs shall also be made

F. Details related to GEBS / RBS

- (i) A description of each GEBS / RBS scheme that existed at any time during the year, including the general terms and conditions of each such scheme, including -
- (a) Date of shareholders' approval
 - (b) Kind of benefits to be granted under the scheme

- (c) Beneficiaries of the scheme
- (d) Total assets of the scheme
- (e) Quantum of holding in own shares / listed holding company shares (both absolute and in percentage)
- (f) Whether scheme is in compliance of regulation 26(2) / 27(3) of the regulations, as applicable
- (g) Variation in terms of scheme

G. Details related to Trust

The following details, *inter alia*, in connection with transactions made by the Trust meant for the purpose of administering the schemes under the regulations are to be disclosed:

(i) General information on all schemes

| Sl. No. | Particulars | Details |
|----------------|---|----------------|
| 1 | Name of the Trust | |
| 2 | Details of the Trustee(s) | |
| 3 | Amount of loan disbursed by company / any company in the group, during the year | |
| 4 | Amount of loan outstanding (repayable to company / any company in the group) as at the end of the year | |
| 5 | Amount of loan, if any, taken from any other source for which company / any company in the group has provided any security or guarantee | |
| 6 | Any other contribution made to the Trust during the year | |

(ii) Brief details of transactions in shares by the Trust

- (a) Number of shares held at the beginning of the year;
- (b) Number of shares acquired during the year through (i) primary issuance (ii) secondary acquisition, also as a percentage of paid up equity capital as at the end of the previous financial year, along with information on weighted average cost of acquisition per share;
- (c) Number of shares transferred to the employees / sold along with the purpose thereof;
- (d) Number of shares held at the end of the year.

(iii) In case of secondary acquisition of shares by the Trust

| Number of shares | As a percentage of paid-up equity capital as at the end of the year immediately preceding the year in which shareholders' approval was obtained |
|--|--|
| Held at the beginning of the year | |
| Acquired during the year | |
| Sold during the year | |
| Transferred to the employees during the year | |
| Held at the end of the year | |

Regulations 16(2) and 23(3) - Disclosure Document

Part A: Statement of Risks

All investments in shares, options or SARs are subject to risk as the value of shares may go down or go up. In addition, the options / SARs are subject to the following additional risks:

1. Concentration: The risk arising out of any fall in value of shares is aggravated if the employee's holding is concentrated in the shares of a single company.
2. Leverage: Any change in the value of the share can lead to a significantly larger change in the value of the options / SARs.
3. Illiquidity: The options / SARs cannot be transferred to anybody, and therefore the employees cannot mitigate their risks by selling the whole or part of their benefits before they are exercised.
4. Vesting: The options / SARs will lapse if the employment is terminated prior to vesting. Even after the options / SARs are vested, the unexercised options / SARs may be forfeited if the employee is terminated for gross misconduct.

Part B: Information about the company

- 1 Business of the company: A description of the main objects and present business of the company.
- 2 Abridged financial information: Abridged financial information, for the last five years for which audited financial information is available, as prescribed under clause (b)(i) of Section 26(1) of the Companies Act, 2013 as amended or re-enacted from time to time. The last audited accounts of the company shall also be provided unless this has already been provided to the employee in connection with a previous option or SAR grant or otherwise.
- 3 Risk Factors: Management perception of the risk factors for the company (i.e., sensitivity to foreign exchange rate fluctuations, difficulty in availability of raw materials or in marketing of products, cost/time overrun etc.).
- 4 Continuing disclosure requirement: The option or SAR grantee shall be provided copies of all documents that are sent to the members of the company. This shall include the annual accounts of the company as well as notices of meetings and the accompanying explanatory statements.

Part C: Salient Features of the Scheme

This Part shall contain the salient features of the scheme of the company including the conditions regarding vesting, exercise, adjustment for corporate actions, and forfeiture of vested options / SARs as the case may be. It shall not be necessary to include this Part if it has already been provided to the employee

in connection with a previous grant, and no changes have taken place in the scheme since then. If the scheme administrator (whether the company itself or an outside securities firm appointed for this purpose) provides advisory services to the grantees in connection with the exercise of options or SAR, as the case may be, or sale of resulting shares, such advice must be accompanied by an appropriate disclosure of concentration and other risks. The scheme administrator shall conform to the code of conduct appropriate for such fiduciary relationships.
