

**CIRCULAR**

**CIR/CFD/POLICYCELL/1/2015**

**April 13, 2015**

**To**

**All Recognised Stock Exchanges  
All Registered Merchant Bankers  
All Registrars to the Issue**

Dear Sir/Madam,

**Sub: Mechanism for acquisition of shares through Stock Exchange pursuant to Tender-Offers under Takeovers, Buy Back and Delisting**

1. SEBI (Buy Back of Securities) Regulations, 1998 (hereinafter referred to as "Buy Back Regulations"), SEBI(Substantial Acquisition of Shares and Takeovers) Regulations, 2011 (hereinafter referred to as "Takeover Regulations"), SEBI(Delisting of Equity Shares) Regulations, 2009 (hereinafter referred to as "Delisting Regulations") were amended vide notification dated March 24, 2015 to facilitate tendering of shares by the shareholders and settlement of the same, through the stock exchange mechanism as specified by the Board.
2. After due deliberations and consultations with the market participants, the procedure for tendering and settlement of shares through stock exchange is specified in Annexure-1.
3. **Applicability**
  - a. This circular shall be applicable to all the offers for which Public Announcement is made on or after July 01, 2015.
  - b. For all impending offers, acquirer/ promoter/ company shall have the option to follow this mechanism or the existing one.

- c. In case an acquirer or any person acting in concert with the acquirer who proposes to acquire shares under the offer is not eligible to acquire shares through stock exchange due to operation of any other law, such offers would follow the existing 'tender offer method'.
  - d. In case of competing offers under Regulation 20 of the Takeover Regulations, in order to have a level playing field, in the event one of the acquirers is ineligible to acquire shares through stock exchange mechanism, then all acquirers shall follow the existing 'tender offer method'.
4. Stock Exchanges shall take necessary steps and put in place necessary infrastructure and systems for implementation of the mechanism and to ensure compliance with requirements of this circular.
  5. This Circular is being issued in exercise of the powers conferred under section 11 (1) of the Securities and Exchange Board of India Act, 1992 read with regulation 13(1A) of Delisting Regulations, regulation 9(3A) of Buy Back Regulations, regulation 18(6A) of Takeover Regulations as amended.
  6. This Circular along with the Annexure is available on the SEBI website at [www.sebi.gov.in](http://www.sebi.gov.in) under the category "Legal framework".

Yours faithfully,

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## ANNEXURE – 1

### Procedure for tendering and settlement of shares through Stock Exchange

#### ACQUISITION WINDOW

- a. The facility for acquisition of shares through Stock Exchange mechanism pursuant to offer shall be available on the Stock Exchanges having nationwide trading terminals in the form of a separate window(the “Acquisition Window”).
- b. The acquirer or company may choose to use the Acquisition Window provided by more than one Stock Exchange having nationwide trading terminal and in that case, one of the exchanges shall be chosen as the "Designated Stock Exchange"(DSE).
- c. The Recognised Stock Exchanges having nationwide trading terminals shall also facilitate acquirers to provide the platform in case of companies exclusively listed on Recognised Regional Stock Exchanges.
- d. In case of competing offers under Regulation 20 of the Takeover Regulations, each acquirer will apply for and use separate Acquisition Windows during the tendering period. If one acquirer chooses to use acquisition window of one Stock Exchange having nationwide trading terminal, it would not be mandatory for the other acquirer to choose the same Stock Exchange.
- e. The acquirer/ company shall appoint a stock broker registered with the Board for the offer. Such broker may also undertake transactions on behalf of sellers.

#### Placing of orders and basis of acceptance

- f. At the beginning of the tendering period, the order for buying the required number of shares shall be placed by acquirer/ company through his stock broker.

- g. During the tendering period, the order for selling the shares will be placed by eligible sellers through their respective stock brokers during normal trading hours of the secondary market.
- h. Such shares would be transferred to a special account of the clearing corporation specifically created for this purpose prior to placing the bid. The stock brokers shall also forward to the Clearing Corporation such details regarding the shares tendered as may be required by the Merchant Banker.
- i. The cumulative quantity tendered shall be made available online to the market throughout the trading session at specific intervals by each of the Stock Exchanges during the tendering period on the basis of shares transferred to the special account of the clearing corporation.

Finalisation of basis of acceptance

- j. In case of offer under Takeover Regulations, the Merchant Banker to the offer shall finalise the basis of acceptance of the shares depending upon the level of acceptances received in the offer.
- k. In case of offer under Buy Back Regulations, the company is required to announce a Record Date for the purpose of determining the entitlement and the names of the security holders who are eligible to participate in the proposed Buy-Back. Based on this information, eligible shareholders can tender shares in the Buy-Back using the Acquisition Window of the Stock Exchanges through selling brokers. However, reconciliation for acceptances shall be conducted by the Merchant banker and the Registrar to the offer after closing of the Offer and the final list shall be provided to the Stock Exchanges to facilitate settlement.

Execution of trades and settlement

- l. Once the basis of acceptance is finalised, the clearing corporation would facilitate execution and settlement of trades by transferring the required number of shares from the special account to the escrow account of the acquirer/ company.
  
- m. The trades shall be carried out in the manner similar to settlement of trades in the secondary market process including providing an option for direct payout to the shareholders. This would include settlement of trades of physical shares as well.
  
- n. Excess shares, if any, would be returned to the seller brokers by Clearing Corporation.
  
- o. The seller broker would then issue contract note for the shares accepted and also return the balance to their respective clients.

p. Disclosures

Additional disclosures required in Detailed Public Statement, Letter of Offer for Takeover Regulations, in Public Announcement for Buyback Regulations and Delisting Regulations:

- i. Name and address of the stock broker appointed by the Acquirer/Company;
- ii. Name of the Recognised Stock Exchanges with nationwide trading terminals where the Acquisition Window shall be available including the name of the Designated Stock Exchange.
- iii. Methodology for placement of orders, acceptances and settlement of shares held in dematerialised form and physical form
- iv. Details of the special account opened with Clearing Corporation.

q. Participation by Physical Shareholders

With regard to the participation of shareholders holding physical shares, the procedure similar to the buyback for physical shares through the open market method of buyback as specified in regulation 15A of SEBI (Buyback of Securities) regulations, 1998 shall apply.

r. Tendering of Locked in-shares

For shares which are locked-in, the selling shareholder can tender the shares in the same manner which is in existence currently i.e. through off-market.

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