

vi) Other Policies and Programmes Having a Bearing on the Working of the Securities Market

Changes in the regulatory framework for:

A. Substantial acquisition of shares and takeovers

Standardised formats of the draft Letter of Offer in terms of the SEBI(Substantial acquisition of shares and Takeovers), Regulations, 1997.

Under the provisions of SEBI (Substantial Acquisition of Shares & Takeovers) Regulations, 1997, the Merchant Banker is required to make a public announcement for an ensuing public offer. Further, subsequently, the merchant banker has to dispatch Letters of Offer to the shareholders of the Target Companies.

To ensure uniformity in compliance of these requirements by all concerned and to enable the concerned persons to furnish all the relevant information in the first instance itself, SEBI has prepared a standard format of the draft Letter of Offer thus prescribing the minimum disclosures requirements. This is with a view to strengthen the disclosure standards, thereby enabling the investors to take informed investment decisions.

These formats have also been made available on the SEBI website to facilitate easy access.

B. The companies (second amendment) bill, 1999

The Companies (Second Amendment) Bill, 1999 was introduced in the Parliament on 23rd December 1999 and subsequently referred to the department related Parliamentary Standing committee on home affairs. The salient features of the said Bill are as under:

Dividend to include interim dividend

The definition of 'Dividend' in section 2(14A) to include any interim dividend.

Minimum capital for public companies

Section 3(iv): A public company should have a minimum paid up capital of five lakh rupees. A private limited company needs to have minimum paid-up capital of Rs.1 lakh.

Deemed public company abolished

Section 43A - The concept of deemed public companies is being abolished with prospective effect.

Default in repayment of deposit

Section 58 AA - If any default is made by any company in repayment of any deposit or any interest thereon the company should give intimation of such default to the CLB. CLB will pass an order within 30 days. The defaulting company will not be able to accept deposit if the default continues.

Listed companies to be administered by SEBI

A new Section 55A is proposed to be included to provide that the provisions contained in sections 55 to 58, 59 to 81, 108, 109, 110, 112, 113, 116, 117, 118, 119, 120, 121, 122, 205, 205A, 206, 206A, 207, 209 and 211 shall in case of listed public companies and those public companies which purport to be listed, be administered by SEBI and in any other case, be administered by the Central Government.

Deemed public offer

Section 67 is being amended by insertion of a proviso to sub-section (3) to section 67 to provide that the offer of securities to more than 50 persons in a financial year will be treated as a public offer.

Guidelines for public issue by PFIs / NBFC to be issued by SEBI

A new sub-section (3B) to section 67 is being inserted to provide that SEBI in consultation with the RBI by notification specify the guidelines in respect of offer or invitation made to public by public financial institutions or NBFCs.

Postal ballot

New section 192A is being inserted to provide that a listed public company can pass a resolution by postal ballot relating to such business as the Central Government may, by notification, declare to be conducted only by postal ballot instead of transacting the business in general meeting of the company.

Appointment of public trustee, etc. abolished

Sections 153A / 153B/ 187B/ 187C being omitted. Thus provisions relating to appointment of public trustee, declaration of shares held in trust, declaration of beneficial interest and filing return thereof are being done away with.

Penalty for failure to pay dividend

Section 207 is amended to provide for penalty for failure to distribute dividend within 30 days instead of earlier 42 days. The amendment also proposes to enhance the imprisonment which may extend to 3 years and the defaulters also liable to pay fine of one thousand rupees for every day during which such default continues and the company is also liable to pay simple interest at the rate of 18 per cent .

Inspection of listed companies by SEBI

SEBI is being empowered to carry out inspection of listed companies under section 209A.

Director representing small shareholders

Section 252 - A public company having paid up capital of Rs.5 crores or more and 1000 or more of small shareholders will be required to have atleast one director elected by the small shareholders. DCA will prescribe the manner of election of such director. The small shareholder is defined as the shareholder having shares of the nominal value of Rs.20,000 or less.

Director's responsibility statement

As per the section 217, Director's report under sub-section (2AA) is proposed to include Board's report and Directors' Responsibility Statement indicating that the applicable accounting standards have been followed; and explanation for material departures, application of accounting policies consistently so as to give a true and fair view of the state of affairs of the company and that the directors have taken sufficient care for the maintenance of adequate

accounting records, safeguarding assets of the company and for preventing fraud, have been implemented.

Auditors not to hold security

Section 226(3) is being amended to provide that an auditor shall not hold any security of the company.

Auditors report on adverse effect

Section 227 is proposed to be amended to provide that auditor's report will state in thick type or italics and observations or the comments of the auditors which have an adverse effect on the functioning of the company and whether any director is disqualified under section 274(1)(g) of the Act.

Disqualification of directors

Section 274 is being amended to provide that a director of a public co., which has not filed annual accounts & annual returns for any continuous three years or has failed to repay its deposit or interest thereon or redeem its debentures or pay dividend on due dates & such default continues for one year; shall not be eligible to be appointed as director of a public co. for a period of 5 years (clause 126 of the Bill)

Reduction in number of directorship a person can hold

The provisions of section 277 is amended so as to reduce the number of companies a person can be a director to 15 companies from earlier 20.

Audit committee

A new section 292A is to be inserted to provide that every public company having a paid up capital of not less than five crores of rupees shall constitute a committee of the Board of Directors known as audit committee. The Audit Committee should have discussions with the auditors periodically about internal control system, the scope of audit including the observations of the auditors and review the half-yearly and annual financial statements before submission to the Board and also ensure compliance of internal control systems. The Audit Committee shall have authority to investigate into any manner in relation to the items specified in this section or referred to it by the Board and for this purpose, shall have full access to information contained in the records of the company and external professional advice, if necessary. The recommendations of the Audit Committee on any matter relating to financial management, including the audit report, shall be binding on the Board.

Secretarial compliance report

As per the Section 383A - every company having a paid up capital of 10 lakhs or more shall file with Registrar secretarial compliance report certified by the Company Secretary.

Prosecution power to SEBI

Section 621 has been amended to authorize SEBI to file complaints for sections to be administered by SEBI in respect of listed companies under section 55A proposed to be inserted by the Bill.

The definition of securities was enlarged to include derivatives and units or any other instruments issued by collective investment schemes to the investors of such schemes.

Derivatives have been defined to include -

- a. a security derived from a debt instrument, share, loan, risk instrument or contract for difference or any other form of security.
 - b. a contract which derives its value from the prices or index of prices of underlying securities.
- Section 18A was inserted to make those contracts in derivatives legal, which are traded on recognised stock exchange and settled in the clearinghouse.
 - Section 29A was substituted to provide for delegation of power by the Central Government to the Reserve bank of India in addition to the Securities and Exchange Board of India.

A. *By Securities Laws (Second Amendment) Act, 1999*

Amendments were made to

- a. The Securities Contracts (Regulation) Act, 1956 to provide for appeal to Securities Appellate Tribunal against refusal of recognised stock exchange to list the securities and procedures for such appeal laid down.
- b. Amendments to the Securities and Exchange Board of India Act, 1992 were made to provide that appeal would lie to Securities Appellate Tribunal from any order of SEBI and procedure for such appeal laid down.
- c. Amendments to the Depositories Act, 1996 were made to provide that appeal would lie to Securities Appellate Tribunal from any order of SEBI and procedure for such appeal laid down.

A. *Securities Appellate Tribunal (Procedure) Rules, 2000*

Securities and Exchange Board of India (Appeal to Central Government) Rules, 1993 and Securities and Exchange Board of India Appellate Tribunal (Procedure) Rules, 1995 were repealed and substituted by new Securities Appellate Tribunal (Procedure) Rules, 2000. Rules provide for appeal to Securities Appellate Tribunal instead of Central Government from any order of SEBI passed after 16th December 1999 and procedure for the appeal.

B. *Depositories (Appeal To Securities Appellate Tribunal) Rules, 2000*

The Depositories (Appeal to Central Government) Rules, 1998 was repealed and replaced by the Depositories (Appeal to Securities Appellate Tribunal) Rules, 2000 providing for appeal to Securities Appellate Tribunal from the order of SEBI.

C. *Securities Contracts (Regulation) (Appeal to Securities Appellate Tribunal) Rules, 2000*

Securities Contracts (Regulation) (Appeal to Securities Appellate Tribunal) Rules, 2000 was framed to provide for appeal to Securities Appellate Tribunal from the decisions of the stock exchanges to refuse listing of securities.

D. *Securities And Exchange Board Of India (Credit Rating Agency) Regulations, 1999*

The SEBI (Credit Rating Agency) Regulations 1999 were notified on 7th July 1999.

- As per the Regulations "**credit rating agency**" means a body corporate which is engaged in, or proposes to be engaged in, the business of rating of securities offered by way of public or rights issue;
- Credit rating agency can be promoted by a public financial institution, a scheduled commercial bank, a foreign bank, a foreign credit rating agency or any company or a body corporate having net worth of Rs. 100 crores.
- A minimum net worth of rupees five crores has been specified for a Credit rating agency.
- Every credit rating agency shall enter into a written agreement with each client whose securities it proposes to rate, and every such agreement shall inter-alia include:-

- a. the rights and liabilities of each party shall be defined;
- b. the client shall agree to a periodic review during the tenure of the rated instrument;
- c. the client shall co-operate with the credit rating agency;
- d. the client shall agree to obtain a rating from at least two different rating agencies whose size is equal to or exceeds, rupees one hundred crores.

- Credit rating agency shall, continuously monitor the rating of securities.
- If the client does not co-operate, the credit rating shall be carried with the rating process with the best available information.
- Every credit rating agency –

- a. shall make public the definitions of the concerned rating, along with the symbol;
- b. shall also state that the ratings do not constitute recommendations to buy, hold or sell any securities; and
- c. every credit rating agency shall make available to the general public information relating to the rationale of the ratings.

- Every credit rating agency shall –

- a. specify the rating process;
- b. shall have professional rating committees, comprising members who are adequately qualified and knowledgeable to assign a rating.

- No credit rating agency shall rate a security issued by its promoter.
- In case promoter is a lending institution, its Chairman, director or employee shall not be a Chairman, director or employee of credit rating agency or its rating committee.
- No credit rating agency shall, rate a security issued by an entity, which is -

- a. a borrower of its promoter; or
- b. a subsidiary of its promoter; or
- c. an associate of its promoter, if
- d. there are common Chairman, Directors between credit rating agency and these entities
- e. there are common employees
- f. there are common Chairman, Directors, Employees on the rating committee.

- No credit rating agency shall rate a security issued by its associate or subsidiary, if the credit rating agency or its rating committee has a Chairman, director or employee who is also a Chairman, director or employee of any such entity.
- Code of conduct has been specified for Credit Rating Agency which inter alia include: -

- a. shall render at all times high standards of service, exercise due diligence, ensure proper care and exercise independent professional judgement.
- b. shall wherever necessary, disclose to the clients, possible sources of conflict of duties and interests, while providing unbiased services
- c. shall avoid any conflict of interest of any member of its rating committee participating in the rating analysis

- d. shall not indulge in unfair competition nor shall they wear away client of any other rating agency on assurance of higher rating
- e. shall not make any exaggerated statement
- f. shall not divulge to other clients, press or any other party any confidential information about its client

A. *Securities And Exchange Board Of India (Collective Investment Scheme) Regulations, 1999*

Securities and Exchange Board of India (Collective Investment Scheme) Regulations, 1999 were notified on 14th October 1999.

- In these regulations, "**collective investment scheme**" means any scheme or arrangement with respect to property of any description -
 - a. Which enables investors to subscribe or participate in scheme or arrangement and receive profits or income arising out of such investment or property
 - b. Subscriptions are pooled and used for the purpose of scheme or arrangement by whatever name it is called.
 - c. Investors subscribing or participating in the scheme or arrangement do not have any control in the day today control over the management or operation.
- The following are specifically excluded from the definition of collective investment scheme, namely:
 - a. deposits by companies and Non-Banking Financial Companies
 - b. Chit Funds
 - c. companies declared as Nidhi companies
 - d. contracts of insurance, etc.
- The applicant shall be:
 - a. registered as a company
 - b. managing of collective investment scheme as one of its main objects
 - c. has a net worth of not less than rupees five crores
- A scheme shall be constituted in the form of a trust and the instrument of trust shall be in the form of a deed and only persons registered with the Board as Debenture Trustee are eligible to be appointed as trustees.
- The trustee and the Collective Investment Management Company shall enter into an agreement for managing the scheme property.
- All the schemes have to be approved by the Trustee.
- Scheme can be launched after obtaining a rating from a credit rating agency.
- Every scheme has to be appraised by an appraising agency
- Collective Investment Management Company can launch only close ended scheme and the duration of the schemes shall not be less than three calendar years.
- Collective Investment Management Company shall obtain adequate insurance policy for protection of the scheme property.
- No scheme shall provide guaranteed or assured returns.
- The offer document shall contain
 - a. such information as specified in the Sixth Schedule
 - b. true and fair view of the scheme and adequate disclosures to enable the investors to make informed decision
 - c. the minimum and the maximum subscription amount it seeks to raise under the scheme; and
 - d. in case of over subscription the process of allotment of the amount oversubscribed.

- The offer document and advertisement materials shall not be misleading or contain any statement or opinion, which are incorrect or false.
- No scheme shall be open for subscription for more than 90 days.
- The Collective Investment Management Company shall refund the application money to the applicants, -

- a. if the scheme fails to receive the minimum subscription
- b. any amount refundable shall be refunded within a period of six weeks from the date of closure of subscription list

- A scheme shall be wound up on the expiry of duration specified in the scheme or on the accomplishment of the purpose of the scheme.
- Existing schemes - The existing CIS were required to make application within 2 months from the date of notification. Such scheme would be considered for grant of provisional registration and given some time to comply with provisions of the regulations. The procedure for winding up of the existing schemes are also laid down.

A. *SEBI (Stock Brokers and Sub-Brokers) (Amendment) Regulations, 1999*

- A summary procedure for enquiry for cases where broker has failed to pay fee or where broker has been declared defaulter or insolvent has been specified.
- The requirement of sending a copy of the order to the Central government was dispensed with.

(2) *SEBI (Stock Brokers and Sub-Brokers) (Amendment) Regulations, 2000*

- The amendment provides for registration and regulation of trading member and clearing member of derivative segment of an exchange.
- Code of conduct, payment of fees by such member have been specified.

A. *SEBI (Payment of Fees) Regulations, 1999*

Regulations relating to merchant bankers, portfolio managers, registrars to an issue / share transfer agents, underwriters, bankers to an issue, debenture trustees in respect of payment of fees were amended to provide for revised registration and renewal fee. The amendment provides for upfront collection of renewal fees.

B. *SEBI (Merchant Bankers) (Amendment) Regulations, 1999*

- A merchant banker who has been granted registration by Reserve Bank of India can act as primary or satellite dealer may carry on such activity but cannot accept or hold public deposit.
- A merchant banker who is authorised to act as primary or satellite dealer can do such business as permitted by RBI.

A. *SEBI (Portfolio Managers) (Amendment) Regulations, 2000*

- A portfolio manager may manage funds raised from outside India as per SEBI (Foreign Institutional Investors) Regulations, 1995.

A. *SEBI (Registrars to an Issue and Share Transfer Agents) (Second Amendment) Regulations, 1999*

Capital adequacy norms are not applicable for in-house share transfer agent.

B. (1) SEBI (Foreign Institutional Investors) (Amendment) Regulations, 1999

- Foreign institutional investor may sell securities in a buy back offer.
- Registration fee by foreign institutional investor is payable through appropriate mode or instrument.

(2) SEBI (Foreign Institutional Investors) (Second Amendment) Regulations, 1999

The criteria for broad based funds was modified to mean a fund which has atleast 20 investors (instead of 50) and with no single investor holding more than 5 per cent (instead of 10 per cent) of the shares or units in the fund.

(3) SEBI (Foreign Institutional Investors) (Amendment) Regulations, 2000

- Domestic Asset Management Company / Domestic Portfolio Manager were permitted to manage foreign investments through portfolio management route and are to be deemed foreign institutional investors.
- No fee specified for domestic asset management company or domestic portfolio manager.
- Foreign corporate or high networth individual investors were allowed to invest as sub-account.
- Non Resident Indian, Overseas Corporate Body registered with Reserve Bank of India are not eligible to invest as sub-account.
- Foreign corporate or individuals are not eligible to invest through 100 per cent debt route
- Investments by foreign corporate or individuals shall not exceed 5 per cent of total issued capital of company.
- Additional information and undertakings by foreign corporates or individuals have been specified.

A. (1) SEBI (Depositories and Participants) (Amendment) Regulations, 1999

- Registrars to an Issue and Share Transfer Agents with networth of Rs.50 lacs can act as depository participant.
- The stock broker depository participant limit for holding demat securities enhanced to 35 times for networth upto 50 to 750 lacs and 50 times for networth above 750 lacs specified.

(2) SEBI (Depositories and Participants) (Second Amendment) Regulations, 1999

- Provision for appointment of outside auditor for inspection of depository, depository participant and issuer company specified.
- The SEBI to recover expenses of inspection from depository or depository participant, issuer.

(3) SEBI (Depositories and Participants) (Third Amendment) Regulations, 1999

- A stock broker can hold as Depository Participant demat securities 100 times of its networth.
- A restriction that Share Transfer Agent cannot act as Depository participants for companies for which it is acting as Share Transfer Agent was removed.

A. *SEBI (Venture Capital Funds) Regulations, 1999*

A body corporate established under the laws of Central or State legislatures was permitted to carry on activities of Venture Capital Fund.

B. *(1) SEBI (Mutual Funds) (Amendment) Regulations, 1999*

- Definition of Trustee was amended to mean a trustee or a company who holds the property of the Mutual Fund for the benefit of the unitholders.
- Details of transaction in securities to be submitted quarterly by the trustees.
- Consent of unit holder for change in fundamental attributes and controlling interest in asset management company not necessary for open ended scheme if unit holders are sent individual communication and given exit option without any exit load.
- Trustees to exercise due diligence.
- Trustees are not liable if acted in good faith and exercised due diligence.
- Independent directors or trustees or asset management company to pay specific attention to certain issues.
- Asset management company were permitted to undertake portfolio management services.
- Disclosure by Mutual Funds at the time of declaring half yearly and yearly results.
- Mutual Funds are permitted to enter into derivative transactions for hedging and portfolio balancing.
- Meeting of trustees to be held once every 3 months.
- Quorum for meeting of trustees specified.
- Trustees and asset management company are required to maintain high standards.
- Mutual Fund cannot invest more than 15 per cent of its NAV in debt instruments issued by a single issuer which are rated not below investment grade, 10 per cent of its NAV in un-rated debt instruments of a single issuer and the total investment in un-rated instruments shall not exceed 25 per cent of NAV.

(2) SEBI (Mutual Funds) (Amendment) Regulations, 2000

- Asset management company made liable to pay interest on failure to despatch redemption / repurchase proceeds within time specified.
- Mutual Funds were given option to send half yearly statement of scheme portfolio to unitholders or publish the same by way of advertisement in leading newspaper.

A. *SEBI (Buy-back of Securities) (Amendment) Regulations, 1999*

- Buyback regulation to cover specified securities instead of shares only.
- The maximum price at which buy-back offer shall be made instead of price and Board of Directors can be authorised by Annual General Meeting to determine specific price, shall be disclosed in Explanatory Statement to the notice.
- Extra-ordinary General Meeting may authorize Board of Directors to adopt one of the methods of buyback under the Regulations.

A. *SEBI (Collective Investment Schemes) Regulations, 1999*

The words 'Collective Investment Scheme' was assigned the same meaning as defined in section 11AA of the Securities an Exchange Board of India Act.

B. *SEBI (Appeal to Securities Appellate Tribunal) (Amendment) Regulations, 2000*

Regulations such as merchant bankers, portfolio managers, registrars to an issue / share

transfer agents, debenture trustees, credit rating agencies, etc. were amended to provide that orders passed under the respective regulations can be appealed before the Securities Appellate Tribunal instead of to the Central Government.

C. Disclosure And Investor Protection Guidelines

Clarification No. XXIV dated 18th May 1999

- SEBI revised the eligibility norms for public issue in respect of criteria of actual payment of dividend. It was laid down that the body corporate desirous of getting the securities listed on any stock exchange shall have a track record of distributable profits in terms of section 205 of the Companies Act for at least 3 out of the immediately preceding five years and a pre-issue networth of not less than Rs.1 crore in 3 out of preceding five years with a minimum networth to be met during immediately preceding 2 years.
- In respect of infrastructure company it was specified that the stake of any of the appraising institution (viz. Development Financial Institution or Infrastructure Development Finance Corporation or Infrastructure Leasing and Financing Services Ltd.) jointly or severally irrespective of whether they have appraised the project or not, can be considered for eligibility criteria.
- SEBI also modified the code of advertisement in respect of public issue stating that issue advertisement on television in the form of crawlers shall not be allowed.

Guidelines to Development Financial Institutions (DFIs) for Disclosure and Investor Protection - Clarification I dated 23rd July 1999

It was decided that -

- the DFIs shall disclose in the offer documents their actual debt equity ratio vis-à-vis the desirable debt equity ratio 12:1;
- the DFIs shall disclose in the offer document their actual Notional Debt-Service Coverage Ratio (NDSCR) vis-à-vis the desirable minimum ratio of 1:2 to be maintained for each year.

Clarification no. XXV dated 11th October 1999

- The standard denomination of the securities was limited to Rs.10/- or Rs.100/- in terms of the Central Government circular. It was decided to give flexibility to companies to determine the denomination of equity shares. The companies are given freedom to issue shares at a fixed amount to be determined by them in accordance with section 13(4) of the Companies Act and subject to the norms specified in the said clarification.
- One set of disclosure and entry norms for all issues and that the company shall give the justification for the issue price of the offer document irrespective of the issue price was specified. Any unlisted company eligible to make public issue was given freedom to price its equity shares subject to compliance with disclosure norms. The banks were also given freedom to freely price the issue of equity shares subject to the approval of the Reserve Bank of India.
- No company shall make the public or right issue for offer for sale of securities unless it enters into an agreement with a depository for dematerialisation of securities already issued or proposed to be issued to the public or existing shareholders and has given an option to the subscribers / shareholders / investors either to receive the securities certificate or to hold the securities with a depository.
- It is provided that pursuant to the change in denomination, the issuer company shall make specific disclosures in the offer document in respect of all the financial data affected by such change, comparison of financial ratios representing value per share and comparison of stock market data in respect of price and volume of securities and shall clearly present

the capital structure incorporated in the offer document giving all the relevant details pertaining to change in denomination.

Clarification No. XXVI dated 15th October 1999

- The requirement of offer to the public at least 25 per cent of each kind or class of securities issued by the company in case of information technology sector company was relaxed subject to the condition that minimum 10 per cent of the securities issued of such companies are offered to the public, minimum 20 lakh securities are offered to the public and the size of the offer to the public is minimum Rs. 50 crores.
- It was specified that in case of offer of companies in the information technology sector, the track record of distributable profits shall be considered for the eligibility requirements only if the profits are emanating from the information technology business or activities.
- It was decided that in case of conversion of a partnership firm into company or spinning of a division of a company track record of distributable profits of the firm or said division shall be considered for the eligibility requirements if the financial statement for the respective years pertaining to the partnership business or division conform to the revised format identical to that required for companies and adequate disclosures are made in the financial statements similar to that of the company as specified in Schedule VI of the Companies Act and the financial statements shall be duly certified by a Chartered Accountant stating that same are in line with the provisions of Schedule VI and Accounting Standards of Institute of Chartered Accountants of India have been followed and that the financial statements present a true and fair picture of the accounts.
- It has been specified that a listed company which has changed its name to indicate as if it is engaged in the business in information technology sector during a period of three years prior to filing of the offer document with the Board can make a public issue if it has a track record of distributable profits in terms of section 205 of the Companies Act for at least three years out of immediately preceding five years from the information technology business and it has a pre-issued networth of not less than rupees one crore in three out of preceding five years with the minimum networth to be met during immediately preceding two years. Otherwise the company can make a public issue in compliance with the existing entry norms.
- Credit rating of all debt instruments irrespective of its tenure was made compulsory. In case of public or right issue of debt instruments greater than or equal to 100 crores it was made compulsory to have instruments rated by two credit rating agencies and all the credit ratings shall be disclosed. It was specified that all the credit ratings obtained in the preceding three years for an unlisted security of the issuer company shall be disclosed in the offer document. The issuer company also were required to make necessary the co-operation of the credit rating agency for providing true, fair and adequate information till the date the application in respect of instruments are outstanding.

Clarification No. XXVII dated 26th November 1999

The guidelines in respect of book-building was modified as under:

- The company proposing to issue securities to public through book building facility was given option either to follow the existing guidelines read with modification effected by the clarification or to issue the securities through book-building facility with an option to offer 75 per cent of net public offer for bidding and the balance 25 per cent at the fixed price determined by the book-building exercise.
- It was provided that the company shall -
 - a. disclose either the issue size or the number of securities to be offered to the public subject to compliance of rule 19(2)(b) of the SC (R) Rules;
 - b. make additional disclosure with respect to the arrangements made for meeting the deficit in financing and the pattern of deployment of excess funds;
 - c. fix the minimum bid size for the book building portion;
 - d. have option to fix the date of allotment for book building portion which may be prior to

- the date of allotment for fixed price portion;
- e. be allowed to spill over the excess subscription from the fixed price portion to the book built portion reserved for allocation to individual investors bidding upto 10 tradable lots to the extent of shortfall in the latter.
- It was clarified that the reservation in allocation to individual investors applying upto 10 tradable lots through the syndicate members shall be with reference to the issue size and not post-issued capital.
- It was stipulated that a company availing the optional facility of offering 75 per cent of net public offer for bidding shall make the allotment in respect of the book-built portion in dematerialised form only. However, the allottees shall have the option to rematerialise the same. Further, such company may graphically display the demand at the end of each day of the bidding at the terminals, use electronically-linked facility and fix a minimum bid size or the book-built portion.

Clarification dated 30th November 1999

Through a press release dated 30th November 1999 it was clarified that if an unlisted company which came up with an Initial Public Offer (IPO) has issued shares to any person at a price lower than the IPO price within 6 months prior to the date of opening of the IPO, the entire pre-IPO capital (except shares issued to venture capitalists and employees of the company) shall be locked in for a period of 6 months from the date of trading of the IPO on the regional stock exchanges.

SEBI (Disclosure and Investor Protection) Guidelines, 2000

All the guidelines, circulars, instructions in respect of disclosure and investor protection was consolidated. The consolidated guidelines known as SEBI (Disclosure and Investor Protection) Guidelines, 2000 consolidating the clarifications upto Clarification No. XXVI was issued on 19th January 2000.

Clarification dated 16th February 2000

- The SEBI (Disclosure and Investor Protection) Guidelines, 2000 was amended on 16th February 2000.
- It was specified that trading in securities of companies making an initial public offering shall be in dematerialised form only.
- It was specified to make available the final offer document on SEBI website.
- The practice of associating Resource Personnel (SEBI nominee) while finalizing the allotment in the public issue in case of over subscription was done away with.
- It was specified that the drawl of lots when required, to finalize the basis of allotment shall be done in the presence of a public representative on the Governing Board of the regional stock exchange. The basis of allotment shall be signed as correct by the Executive Director / Managing Director of the stock exchange and the public representative in addition to post issue lead manager and the registrar to the issue. The stock exchange shall invite the public representative on a rotation basis.

A. SEBI (Employee stock Option Scheme and Employee Stock Purchase scheme) Guidelines, 1999

These guidelines were issued on 24th June 1999.

- As per these guidelines ESOS means a scheme under which a company grants option to employees and ESPS means a Scheme under which a company offers shares to employees as part of public issue or otherwise.

- Promoters of the company and directors and relatives of the company who have holding of more than 10 per cent are not eligible under either of the schemes.
- The company will have to constitute a Compensation Committee to formulate detailed terms and conditions of ESOS and ESPS as the case may be. The said Committee will have to look into the quantum of option to be granted, conditions, exercise period within which employees have exercise their option, rights at the time of termination of employment etc.,
- The Compensation Committee shall see to that SEBI (Insider Trading) Regulations and SEBI (Prohibition of Fraudulent and Unfair Trade Practices relating to the securities market) Regulations are complied with.
- The company will have to pass a special resolution in the general meeting approving the grant of ESOS and ESPS as the case may be. The notice of the meeting in detail should contain details of the number of options to be granted or shares to be offered as the case may be, identification of classes of employees and the maximum time period within which options shall be vested or the shares may be held.
- The terms of ESOS and ESPS as the case may be can only be changed only after passing a special resolution in the general meeting pertaining to only terms which were not yet exercised by the employee.
- The shares or the options as the case may be are subjected a lock-in period of one year and are non-transferable however shares issued or options granted pursuant to such issue or option are not subject to lock-in period.
- The Board of Director's either in their report or in the Annexure of the report all the details regarding to the issue of shares or grant of options as the case may be.
- The company shall comply with the Accounting policies specified in Schedule I.
- The company will have to obtain a certificate from the auditors that the scheme has been implemented and place it before the shareholders in the general meeting.

A. *Amendments to the Listing Agreement*

- a. By circular dated 26th April 1999, the exchanges were advised to amend clauses 32 and 41 of the listing agreement to provide that companies who change their names suggesting any new line of business (including software business) shall disclose turnover and income, etc. from such new activity separately in the quarterly / annual results required to be published.
- b. By circular dated 18th May 1999 the exchanges were advised to amend the listing agreement in order to appoint the Company Secretary of the company as the compliance officer.
- c. SEBI vide its circular dated 19th May 1999, clause 32 of the listing agreement was amended to provide that each shareholder be furnished abridged balance sheet and full balance sheet could be sent to each household. However, if any investor in the same household wants a separate balance sheet, the company shall supply on request.
- d. Vide circular dated 1st July 1999, exchanges were advised to amend the listing agreement that in case the companies prefers to give audited results instead of unaudited results for the last quarter of the financial year, then the company has to submit the audited results within three months instead of two months from the end of the last quarter of the financial year.
- e. Vide circular dated 14th July 1999, the exchanges were advised to amend the listing agreement to provide that the company should co-operate with the credit rating agencies for giving the correct and adequate information for periodical review of rating during the life-time of rated securities.
- f. Vide circular dated 4th February 2000, exchanges were advised to amend the listing agreement in respect of accounting standards relating to continuous disclosures requirements as under:
 - i. The cash flow statement shall be prepared in accordance with the accounting standards on cash flow statement (AS3) issued by ICAI and the cash flow statement shall be presented only in the indirect method as given in AS3.
 - ii. Clause 41 - companies may be permitted to consider unaudited quarterly results in the

meeting of sub-committee of the Board of Directors consisting of not less than 1/3rd of the total number of directors. The company will make an announcement to the stock exchange where the company is listed immediately after the market hours on the date of the Board meeting or the meeting of the sub-committee or the Board of Directors.

- iii. Clause 19 - Prior intimation of the Board meeting on which declaration of the dividend is due to be considered must be made atleast 7 days in advance. The company shall give notice simultaneously to the stock exchanges in case proposal for declaration of bonus is communicated to the Board of Directors as per the agenda papers.
- iv. Amendment to clause 20 and 22 - The announcement in respect of declaration of dividend or rights or bonus shall be made immediately on the date of the Board meeting only after the close of market hours.
- a. Vide circular dated 21st February 2000 exchanges were advised to amend the listing agreement in order to promote and raise the standards of corporate governance.
- i. Clause 49 - The Board of Directors of the listed company shall have an optimum combination of executive and non-executive directors that not less than 50 per cent of the Board of Directors comprising of non-executive independent directors.
 - (ii) The company shall appoint qualified and independent audited committee to oversee company's financial reporting process and disclosure of its financial information, reviewing with the management the annual financial statement before submission to the Board.
 - (iii) Disclosures on the remuneration of directors in the annual report.
 - (iv) The Board meeting shall be held atleast 4 times a year with a maximum time gap of 4 months between any 2 meetings.
- i. The management discussions and analysis report should form part of the annual report to the shareholders.
- ii. Information to the shareholders in respect of appointment of new director.
- iii. A separate section of corporate governance in the annual reports to be published both in respect of non-compliance of any mandatory requirement and non-mandatory requirements.
- iv. Auditor to furnish certificate in respect of compliance of conditions of corporate governance and publish and send annually to the shareholders and to the stock exchanges.

A. *Notifications under section 16 of the SC (R) ACT -*

1969 Notification repealed

- i. The Central Government vide notification no. S.O. 186(E) dated 1st March 2000 rescinded the notification no. S.O. 2561 dated 27th June 1969 prohibiting entering into contracts in securities otherwise than as per the bye-laws and regulations of the stock exchanges, etc.

Regulation of debt market by SEBI and RBI - demarcation

- ii. The Central Government vide notification no. 183(E) dated 1st March 2000 amended notification no. S.O. 573(E) dated 30th July 1992 which relates to delegation of certain powers to SEBI. The Central Government vide notification dated 1st March 2000 delegated the power exercisable by it under section 16 of the S C (R) Act to RBI in relation to any contracts in government securities, money market securities, gold related securities and any securities derived from these securities and in relation to ready forward

contracts in bonds, debentures, debenture stock, securitised debt and other debt securities. It is further specified that such contracts entered into on the recognized stock exchange shall be entered into in accordance with the rules or regulations or the bye-laws made under the SC (R) Act, SEBI Act or directions issued by SEBI, directions issued under the RBI Act or the Banking Regulations Act or the FERA by the RBI.

Notification under section 16(1) by SEBI

- iii. SEBI in exercise of the powers conferred under section 16(1) read with the Government of India notification no. S.O. 573(E) dated 30th July 1992 and S.O. 183(E) dated 1st March 2000 issued notification no. 183(E) dated 1st March 2000 declaring that no person shall enter into any contracts for sale or purchase of securities otherwise than spot delivery contracts for cash or hand delivery or special delivery or contracts in derivatives as is permissible in the said Act or the Securities and Exchange Board of India Act, 1992 and the rules and regulations made under such Acts and the rules, regulations and bye-laws of the recognized stock exchange. It was further specified that the contracts for purchase or sale of government securities, money market securities, gold related securities, ready forward contracts, debt securities to be entered into the recognized stock exchange shall be entered in accordance with the rules or the regulations or the bye-laws made under the SC (R) Act or the SEBI Act or the directions issued by SEBI and the rules made under the RBI Act, Banking Regulation Act and the FER Act by RBI.

Implementation of objectives and principles of IOSCO by SEBI

The SEBI is an active and a leading member of the International Organization of Securities Commissions (IOSCO). India stands committed to the various measures and efforts undertaken by the IOSCO in order to improve transparency in the functioning of the international capital markets and increasing the efficiency of the global securities markets.

The IOSCO has issued a set of 30 principles of securities regulation, which are based upon three objectives of securities regulation. These objectives are:

- The protection of investors
- Ensuring that markets are fair, efficient and transparent
- The reduction of systemic risk

These 30 principles need to be practically implemented under the relevant legal framework to achieve the objectives of the regulation described above. The SEBI has always endeavoured to harmonise the SEBI regulations and guidelines with these principles in order to conform to global standards. These principles are grouped into eight categories, which along with their respective implementation status are given in Table 1.5.

Table 1.5: Implementation of Principles of Securities Regulations of IOSCO

Sr.No.	Principles	Status Of Implementation
A.	Principles Relating To The Regulator	
1	The responsibilities of the regulator should be clear and objectively stated	Partially Implemented The Preamble of the SEBI Act provides that the responsibility of SEBI is to protect the

		interest of investors and to promote the development of and to regulate the securities market and for matters connected therewith. Necessary changes have to be made in other legislation empowering SEBI to supervise and regulate listed companies.
2	The regulator should be operationally independent and accountable in the exercise of its functions and powers.	<p>Implemented</p> <p>SEBI is an autonomous body created under a separate statute i.e. SEBI Act, 1992. SEBI has to submit returns , reports and statements to Central Government , which are laid before each House of the Parliament by the Central Government.</p>
3	The regulator should have adequate powers, proper resources and the capacity to perform its function and exercise its powers.	<p>Partially Implemented</p> <p>SEBI has power of direct surveillance of the stock exchanges, members of stock exchanges and other market intermediaries registered with it. SEBI has no powers over listed companies .</p>
4	The regulator should adopt clear and consistent regulatory processes.	<p>Implemented</p> <p>SEBI has been given powers to frame regulations under Section 30 of the SEBI Act. The regulations are required to be published in the Gazette of India and also laid before each House of the Parliament.</p>
5	The staff of the regulator should observe the highest professional standards including appropriate standards of confidentiality.	<p>Implemented</p> <p>Code of Conduct is specified in the Service regulations and the staff members are required to undertake and declare fidelity and secrecy in terms of the regulations.</p>
B	Principles of Self - Regulation	
6	The regulatory regime should make appropriate use of self – regulatory organizations (SROs) that exercise some direct oversight responsibility for the respective areas of competence, to the extent appropriate to the size and complexity of the Markets.	<p>Implemented</p> <p>Under the SEBI Act, there is provision for promotion and regulation of SROs.</p> <p>These SROs are also empowered to make rules and regulations for their members and for regulating the conduct of respective members.</p>
7	SROs should be subject to the oversight of the regulator and should observe standards of fairness and confidentiality when exercising powers and	<p>Implemented</p> <p>These SROs are under the direct oversight of the SEBI and SEBI issues guidelines and directions periodically to ensure safety ,</p>

	delegated responsibilities.	integrity and improvement of the market.
C	Principles for the Enforcement of Securities Regulation	
8	The regulator should have comprehensive inspection investigation and surveillance powers.	<p>Implemented</p> <p>SEBI Regulations relating to various market intermediaries authorize SEBI to carry out routine inspections of their functions. SEBI has also set up a Market Surveillance Division to keep a pro active oversight on the surveillance activities of the stock exchanges. SEBI has powers in respect of discovery and production of records and documents, summoning and enforcing the attendance of persons and examining them under oath.</p>
9	The regulator should have comprehensive enforcement powers	<p>Partially Implemented</p> <p>Action is taken on the basis of the report of the investigation and/or of the enquiry/ adjudication officer who is appointed in terms of the various SEBI Regulations pursuant to the completion of the investigation. In respect of intermediaries, action is taken by way of suspension of business, cancellation of registration, and issue of censure/warning.</p>
10	The regulatory system should ensure an effective and credible use of inspection, investigation, surveillance and enforcement powers and implementation of an effective compliance program.	<p>Partially Implemented</p> <p>Some of the important measures taken up by SEBI to ensure effective and credible use of investigation, surveillance enforcement powers are as follows :</p> <ul style="list-style-type: none"> • Risk containment measures • Uniform scrip specific price bands • Development of stock watch system • Suspension of intermediaries • Prohibitive action taken under sec 11 B of SEBI Act.
D	Principles for Co-operation in Regulation	
11	The regulator should have authority to share both public and non-public information with domestic and foreign counterparts.	<p>Implemented</p> <p>SEBI shares information with the Government of India, The Reserve Bank of India and other domestic regulatory bodies on a periodic basis or as and when requested.</p>

		SEBI also shares information with its foreign counter parts as and when requested.
12	Regulators should establish information sharing mechanisms that set out when and how they will share both public and non-public information with their domestic and foreign counterparts.	<p>Partially Implemented</p> <p>A mechanism has been set up for sharing information with the Government and the Reserve Bank of India on a periodic basis.</p> <p>SEBI has entered into a Memorandum of Understanding with Securities and Exchange Commission, USA for information sharing.</p> <p>SEBI also intends to sign similar MOUs with other regulatory bodies.</p>
13	The regulatory system should allow for assistance to be provided to foreign regulators who need to make inquiries in the discharge of their functions and exercise of their powers.	<p>Partially Implemented</p> <p>Powers of the regulator to assist foreign regulators or to enter into MOUs or other co-operation arrangements need to be explicitly provided in the legislation and for this necessary changes have to be made in the law.</p>
E	Principles for Issuers	
14	There should be full, timely and accurate disclosure of financial results and other information that is material to investors' decisions.	<p>Implemented</p> <p>As per the listing agreement with the Stock Exchanges, all the listed companies are required to publish on an annual basis financial statements audited by an external auditor .</p>
15	Holders of securities in a company should be treated in a fair and equitable manner	<p>Implemented</p> <p>Minority shareholders' protection is facilitated through SEBI (Substantial Acquisition of Shares and Takeovers), Regulations , 1997- a subordinate legislation under the SEBI Act.</p>
16	Accounting and auditing standards should be of a high and internationally acceptable quality	<p>Implemented</p> <p>As per the listing agreement with the Stock Exchanges, all the listed companies are required to publish on an annual basis financial statements audited by an external auditor and also publish unaudited quarterly results. Listed companies are required to prepare financial statements in accordance with the provisions of Section 211 of the Companies Act, 1956.</p>
F	Principles for Collective	

	Investment Schemes	
17	The regulatory system should set standards for the eligibility and the regulation of those who wish to market or operate a collective investment scheme.	<p>Implemented</p> <p>Eligibility standards have been specified in SEBI Mutual Fund Regulations, 1996 for sponsors of mutual funds e.g. net worth, past track record</p>
18	The regulatory system should provide for rules governing the legal form and structures of collective investment schemes and the segregation and protection of client assets.	<p>Implemented</p> <p>Structure of a mutual fund has been specified in SEBI Mutual Fund Regulations, 1996.</p>
19	Regulation should require disclosure, as set forth under the principles for issuers, which is necessary to evaluate the suitability of a collective investment scheme for a particular investor and the value of the investors interest in the scheme.	<p>Implemented</p> <p>Disclosure standards including format of offer document have been specified in SEBI Mutual Fund Regulations, 1996</p>
20	Regulation should ensure that there is a proper and disclosed basis for assets valuation and the pricing and the redemption of units in a collective investment scheme.	<p>Implemented</p> <p>Specific provisions in SEBI Mutual Fund Regulations, 1996 have been provided for asset valuation and pricing of units</p>
G	Principles for Market Intermediaries	
21	Regulation should provide for minimum entry standards for market intermediaries.	<p>Implemented</p> <p>The eligibility criteria has been prescribed for the intermediaries , which need to be fulfilled before granting registration.</p>
22	There should be initial and on going capital and prudential requirements for market intermediaries that reflect the risks that the intermediaries undertake.	<p>Implemented</p> <p>The entry norms for the intermediaries provide for the capital clause as well as the maintenance of the same on a continuing basis.</p>
23	Market intermediaries should be required to comply with standards for internal organizations and operational conduct that aim to protect the interest of clients, ensure proper management risk, and under which management of	<p>Implemented</p> <p>Each Regulation contains a separate chapter on Code of Conduct which contains provisions to protect the interest of the clients, and ensure proper management of risk.</p>

	the intermediary accepts primary responsibility for these matters.	
24	There should be procedures for dealing with the failure of a market intermediary in order to minimize damage and loss to investors and to contain systemic risk.	<p>Implemented</p> <p>The protection of the interest of the investors is the essence of the regulation of the capital market by SEBI. This has been ensured by the trade guarantee funds of the exchanges and Investor/Customer Protection Funds established at each Stock Exchanges .</p>
H	Principles for the Secondary Market	
25	The establishment of trading systems including securities exchanges should be subject to regulatory authorization and oversight.	<p>Implemented</p> <p>The power of jurisdiction over the stock exchanges is drawn from the provisions of the Securities Contracts (Regulation) Act 1956. The exchanges have to seek recognition from SEBI under Section 4 of the Act before they can commence their operations. SEBI has been delegated the powers to administer the SC(R)A, 1956.</p>
26	There should be ongoing regulatory supervision of exchanges and trading systems which should aim to ensure that the integrity is maintained through fair and equitable rules that strike an appropriate balance between the demands of different market participants.	<p>Implemented</p> <p>The regulation of the stock exchanges is under direct jurisdiction of SEBI. More over exchanges being an SRO, exercise direct control over its member. Over and above these controls, SEBI also manages the regulation of these brokers on the principle of the regulation by exception.</p>
27	Regulation should promote transparency of trading	<p>Implemented</p> <p>All the stock exchanges have online screen based trading. This has been made as one of the entry norms for the stock exchanges as per the provision in the section 4 of the SC (R)A, 1956. All the deals have to be executed in the on-line automated price and order matching mechanisms of the stock exchanges.</p>
28	Regulation should be designed to detect and deter manipulation and other unfair trading practices.	<p>Partially Implemented</p> <p>This has been implemented through SEBI (Prohibition of Fraudulent and Unfair Trade Practices relating to securities market) Regulations 1995. SEBI has advised stock exchanges to set up a sophisticated Stock Watch system, which generates on-line real</p>

		time alerts on specified parameters.
29	Regulation should aim to ensure the proper management of large exposures, default risk and market disruption.	<p>Implemented</p> <p>The amount of exposure a member can take is directly linked to the up front capital . In case of erosion in capital, the same is replenished in 24 hrs. The exposure of the member brokers of the exchanges is also monitored by the exchanges on a real time basis. The exchanges also have in place systems where the broker is restricted from concentrating his position in a few scrips.</p> <p>The Trade Guarantee Fund of the exchange interposes between the parties of the transactions and thus eliminates risk of counter party failure.</p>
30	Systems of clearing and settlement of securities transactions should be subject to regulatory oversight, and designed to ensure that they are fair, effective and efficient and that they reduce systemic risk.	<p>Implemented</p> <p>As per the law the clearing and the settlement of transactions is one of the functions of the exchange.</p> <p>The clearing corporations and the trade guarantee funds of the exchanges guarantee the net obligations of the members, reducing counterparty risk. The introduction of rolling settlement has also reduced systemic risk.</p>

A constant effort is being made to strengthen the regulations and bring them on par with the international standards.