

SECURITIES AND EXCHANGE BOARD OF INDIA

Memorandum to the Board

Review of regulations and relevant circulars pertaining to Market Infrastructure Institutions (MIIs) viz., Stock Exchanges, Depositories and Clearing Corporations

1. Objective

1.1. To solicit the comments from public on the proposal pertaining to amendments to the Securities Contracts (Regulation) (Stock Exchanges and Clearing Corporations) Regulations, 2012 (hereinafter referred as “SECC Regulations”), Securities and Exchange Board of India (Depositories and Participants) Regulations, 1996 (hereinafter referred as “D&P Regulations”) and SEBI circular dated December 13, 2012.

2. Background

2.1. The SEBI Board, in its meeting held on December 22, 2009 decided to constitute a committee to examine issues arising from the ownership and governance of MIIs. Accordingly, a committee (hereinafter referred as “committee”) was constituted under the Chairmanship of Dr. Bimal Jalan, Former Governor, Reserve Bank of India.

2.2. The terms of reference of the committee included, inter alia, to review and make recommendations on issues including ownership structure of stock exchanges (SEs) and clearing corporations (CCs), board composition, listing and governance of SEs and CCs, balance between regulatory and business functions of SEs and CCs with respect to their ‘for profit’ status. Subsequently, the ownership and governance of depositories was also included in the scope of the study.

- 2.3. The committee post examination had provided recommendations taking into account the views expressed by various stakeholders, MIIIs as well as the Indian and global experience, concerning the working of the MIIIs.
- 2.4. The Committee had recommended that the working of the MII should be reviewed again by SEBI after five years, as the stock market is evolving and a review may be inevitable in light of the new technological developments, introduction of new products, growth of financial markets, trade and capital flows and global integration.
- 2.5. The recommendations of the committee were discussed in the Board meeting held on April 02, 2012. Subsequently, SECC Regulations were notified on June 20, 2012, providing norms for recognition, ownership, governance, listing of SEs and CCs. Similarly, governance norms for depositories were notified vide amendment dated September 11, 2012, in D&P Regulations.
- 2.6. Subsequently, SEBI vide circular dated December 13, 2012 prescribed procedural norms on Recognition, Ownership and Governance for SEs and CCs, for effective implementation of the SECC Regulations.
- 2.7. Thereafter, from time to time SECC Regulations and D&P Regulations have been amended to address the issue arising out of definition of associates, composite cap for Foreign Portfolio Investors (FPIs), inclusion of definition of commodity derivatives exchanges, increased limit of foreign investment from 5% to 15% in Indian SEs, on account of changes in the government policies, merger of FMC with SEBI, etc. Accordingly, the circular dated December 13, 2012 was also modified to provide appropriate clarifications with regard to definition of associate etc.
- 2.8. While SEBI has endeavored to keep the SECC Regulations, D&P Regulations and the guidance provided through various circulars in line with the ever

evolving market dynamics, still many representations have been received from various stakeholder such as MIIIs, on issues related to governance, ownership, concerns arising post listing of stock exchanges and depositories, etc. Therefore, it is felt that the SECC Regulations, D&P Regulations and circular dated December 13, 2012 may require a comprehensive review, so as to address the aforesaid concerns and to keep the SECC Regulations, D&P Regulations in sync with the changing market dynamics.

2.9. Bimal Jalan committee had also recommended to review the SECC Regulations after 5 years. The period of 5 years from the date of notification of SECC Regulations i.e. June 2012 will be getting over in June 2017.

3. Proposal

3.1. In view of the above, it is proposed:

3.1.1. To comprehensively review the SECC Regulations, D&P Regulations and related circulars

3.1.2. As a part of aforesaid comprehensive review, to start with, seek public comments on SECC Regulations, D&P Regulations and circulars

3.2. The Board may consider the proposal at para 3.1 and authorizing the Chairman to take consequential and incidental steps for the review of SECC Regulations, D&P Regulations and circular dated December 13, 2012 including amendments to SECC Regulations, D&P Regulations and aforesaid circular.