

## **Restrictions on Fugitive Economic Offenders**

1. This memorandum presents before the Board information about restrictions imposed by SEBI on fugitive economic offenders.
2. The Government of India has notified the Fugitive Economic Offenders Act, 2018. The Act has laid down measures to enable attachment and confiscation of proceeds of crime associated with economic offenders and the properties of the economic offenders. The Department of Economic Affairs (DEA), Ministry of Finance (MOF), vide Office Memorandum dated April 26, 2018 inter alia requested SEBI to issue necessary instructions for utilizing the legal framework created under the Ordinance (now notified as Act) to effectively deal with the fugitive economic offenders.
3. SEBI has deliberated on this issue and decided to impose several restrictions on fugitive economic offenders in relation to accessing securities markets, mainly in SEBI (Issue of Capital and Disclosure Requirements) Regulations and SEBI (Substantial Acquisition of Shares and Takeovers), Regulations, 2011 (“Takeover Regulations”).
4. SEBI Board at its previous meeting held on June 21, 2018 had inter alia approved:
  - a) Replacing of SEBI (Issue of Capital and Disclosure Requirements) Regulations, 2009 with new SEBI (Issue of Capital and Disclosure Requirements) Regulations, 2018 (“ICDR, 2018) and
  - b) Amendments in Takeover Regulations.
5. Since subsequently SEBI was in the process of notifying ICDR, 2018, and amendments in Takeover Regulations, in the interest of time, it was decided to insert the following restrictions on fugitive economic offenders in the ongoing revisions to ICDR and Takeover Regulations:
  - Restrictions on raising capital through initial public offers (IPOs) on main board, rights issue, further public offers, preferential issue, Qualified Institutional

Placement, IPO of Indian Depository Receipts (IDRs), Rights issue of IDRs and IPO by Small & Medium Enterprises, if any of the promoter or director of the issuer is a fugitive economic offender.

- Restrictions on listing on ITPs and issue of bonus shares if any of the promoter or director of the issuer is a fugitive economic offender.
- Further, fugitive economic offenders have been prohibited from making an open offer, counter offer or acquiring any shares or voting rights or control in a target company.

The details are in **Annexure- A**.

6. The ICDR 2018 and amendments in Takeover Regulations, with above restrictions on fugitive economic offenders, have been notified on September 11, 2018.

This Memorandum is submitted for information of the Board.

**SEBI (Issue of Capital and Disclosure Requirements) Regulations, 2018**

The following insertions have been made in the ICDR, 2018, in relation to fugitive economic offenders:

i. Chapter I-Preliminary

Insertion of the following definition of fugitive economic offender after clause (o) of sub-regulation (1) of regulation 2 of the proposed ICDR Regulations, 2018

Regulation 2(1)(p) - “fugitive economic offender” shall mean an individual who is declared a fugitive economic offender under section 12 of the Fugitive Economic Offenders Act, 2018 (17 of 2018);

ii. Chapter II-Initial Public Offer on Main Board

Insertion of new sub regulation 5(1)(d)- to state that an issuer shall not be able to make an initial public offer “if any of its promoters or directors is a fugitive economic offender”.

iii. Chapter III-Rights issue

Insertion of new sub regulation 61(c)- to state that an issuer shall not be able to make rights issue of specified securities “if any of its promoters or directors is a fugitive economic offender .”

iv. Chapter IV-Further Public Offer

Insertion of new sub regulation 102.(d) -to state that an issuer shall not be eligible to make a further public offer “if any of its promoters or directors is a fugitive economic offender”.

v. Chapter V – Preferential issue

Insertion of new sub regulation 159.(3)- to state that “An issuer shall not be eligible to make a preferential issue if any of its promoters or directors is a fugitive economic offender”.

vi. Chapter VI – Qualified Institutional Placement

Insertion of new sub regulation 172.(1) (c)- to state that “An issuer shall be eligible to make a qualified institutions placement if any of its promoters or directors is not a fugitive economic offender”.

vii. Chapter VII – Initial Public Offer of Indian Depository Receipts

Insertion of new sub regulation 183(1)(d)- to state that an issuer shall be eligible to make an issue of IDRs only if “any of its promoters or directors is not a fugitive economic offender”.

viii. Chapter VIII – Rights issue of Indian Depository Receipts

Insertion of new sub regulation 213 (b)- to state that an issuer shall not be eligible to make a Rights issue of Indian Depository Receipts “if any of its promoters or directors is a fugitive economic offender”.

ix. Chapter IX-IPO by Small & Medium Enterprises

Insertion of new sub regulation 228(d) to state that an issuer shall not be eligible to make an initial public offer in the SME segment “if any of its promoters or directors is a fugitive economic offender”.

x. Chapter X – Institutional Trading Platform

Insertion of new sub regulation 283.(3)- to state that “An issuer shall be eligible for listing on the institutional trading platform if none of the promoters or directors of the issuer company is a fugitive economic offender.”

xi. Chapter XI – Bonus issue

Insertion of new sub regulation 293.(e)- to state that a listed issuer shall be eligible to issue bonus shares to its members if “any of its promoters or directors is not a fugitive economic offender”.

## **SEBI (Substantial Acquisition of Shares and Takeovers), Regulations, 2011**

The following amendments have been carried out in the Takeover Regulations, 2011 in relation to fugitive economic offenders:

- i. Insertion of the following definition of FEOs after sub-clause (j) of sub-regulation (1) of regulation 2 of Takeover Regulations, 2011:

“Fugitive economic offender” shall mean an individual who is declared a fugitive economic offender under section 12 of the Fugitive Economic Offenders Act, 2018 (17 of 2018).

- ii. Insertion of the following new regulation 6B in the Takeover Regulations, 2011.

“Notwithstanding anything contained in these regulations, no person who is a fugitive economic offender shall make a public announcement of an open offer or make a competing offer for acquiring shares or enter into any transaction, either directly or indirectly, for acquiring any shares or voting rights or control of a target company.”