

## **Framework for Social Stock Exchange**

### **1. Objective**

1.1. This memorandum seeks approval of the Board for putting in place a framework for the Social Stock Exchange (SSE) under the regulatory ambit of SEBI.

### **2. Background**

2.1. The Hon'ble Finance Minister as part of the Budget Speech for FY 2019-20 had proposed to initiate steps towards creating a social stock exchange, under the regulatory ambit of Securities and Exchange Board of India, for listing social enterprise and voluntary organizations. The relevant extract of the speech is as below:

“It is time to take our capital markets closer to the masses and meet various social welfare objectives related to inclusive growth and financial inclusion. I propose to initiate steps towards creating an electronic fund raising platform- a social stock exchange-under the regulatory ambit of Securities and Exchange Board of India for listing social enterprises and voluntary organizations working for the realization of a social welfare objective so that they can raise capital as equity, debt or as units like a mutual fund.”

2.2. Subsequently, SEBI, in September, 2019 constituted a working group (WG) under the chairmanship of Shri Ishaat Hussain (Ex-Director, Tata Sons) to inter-alia, make recommendations w.r.t possible structures and mechanism within securities market domain. The working group consisted of representatives of stakeholders active in the space of social welfare, social impact investing, representatives from Ministry of Finance, the stock exchanges and NGOs. The working group had a series of consultations with various stakeholders including voluntary organizations, social enterprises and philanthropic organizations in order to assess the difficulties faced by them in raising funds/ donating funds.

2.3. The WG while outlining its vision for SSE made certain high level recommendations such as permitting participation of Social Enterprises (SE) on SSE, minimum reporting

requirements, possible means/ mechanisms of raising finance, standardization of financial reporting by NPOs, creation of separate Self Regulatory Organizations (SROs) for Social Auditors etc. A brief on recommendations of WG Report is placed at **Annexure I**. The WG report was made available for public comments on SEBI website on June 01, 2020. SEBI received 994 comments from 131 entities. The WG report is placed at **Annexure II**.

2.4. Commentators on the WG report, while welcoming the framework, remarked on various matters such as need for a separate stock exchange, defining social enterprise especially in the context of for-profit social enterprise, details on modalities of the instruments, granularity on disclosure requirements, eminent need for social auditors etc.

2.5. The WG report and the comments received were deliberated internally and it was desired that certain aspects such as onboarding entities on the SSE including defining social enterprises, disclosure requirements relating to financials, governance, operational performance and social impact etc. needed further detailing. Accordingly, SEBI in September, 2020 constituted a Technical Group on SSE under the chairmanship of Dr. Harsh Kumar Bhanwala (Ex-Chairman, NABARD). The TG was also tasked to recommend on matters related to scope of work, eligibility criteria and regulation of social auditors. The TG also considered the public comments received in respect of the WG report.

2.6. The TG has built upon the recommendations of the WG. The TG has recommended eligibility criteria for a social enterprise whether it is a Non Profit Organisation (NPO) or For Profit Enterprise (FPE), provided parameters that need to be disclosed initially during registration / listing as well as on continuous basis, creation of capacity building fund, and certain changes in Alternative Investment Funds –Social Venture Fund (AIF-SVF) regulations. The TG has provided specific recommendations on constitution and function of a Self Regulatory Organisation (SRO) for Social Auditors.

2.7. The TG report was made available for public comments on May 06, 2021. A total 222 comments have been received from 37 commentators. A gist of the

recommendations of the TG is placed alongside at **Annexure III**. The TG report is placed at **Annexure IV** and compilation of public comments received on the same is placed at **Annexure V**.

### **3. Key recommendations of the WG and TG on SSE**

3.1. The key recommendations of the working group and technical group (collectively referred to as expert groups) are structured around the following aspects of the SSE:

i. Social Stock Exchange may be constituted as a separate segment under the existing stock exchanges.

ii. Eligibility of social enterprises

A social enterprise may be eligible for on-boarding on SSE if it demonstrates that social intent and impact are its primary goals and it reports such impact. This is irrespective of the legal structure of the enterprise. The TG has also recommended a list of activities to establish the primacy of social objective of the enterprise, as detailed in subsequent sections.

iii. Registration

To inculcate a cultural shift and enable transition towards a disclosure based regime, the TG has recommended that NPOs may be required to be registered prior to raising funds through SSE and has put forth a set of qualifying criteria for registration.

iv. Instruments available for NPOs

The TG has recommended that post registration, NPOs can directly list on SSE through issuance of Zero Coupon Zero Principal Bonds. Section 8 companies can raise fund through issuance of equity. Certain other means available to NPOs may include social venture funds, development impact bond structure, and donations through Mutual Funds.

v. Instruments available for FPEs

The TG observed that sufficient regulatory guidelines under various SEBI Regulations exist for listing securities such as equity, debt issued by FPEs. FPEs may list their securities on the appropriate existing board - debt securities may be listed on the main board, while equity securities may be listed on the main board, or SME or IGP.

However, FPEs may be identified clearly as For Profit Social Enterprise (FPSE) by the Stock Exchange, distinct from conventional commercial enterprises.

vi. Social Impact Funds

In order to facilitate fund raising for social enterprises through AIFs, the expert groups recommended that the existing regulatory framework for social venture funds needs to be amended as follows:

- a. Social Venture Funds may be rechristened as Social Impact Funds (SIFs)
- b. A new form of SVF, exclusive for SSE, may be allowed to set up which will be based on 100% grants-in, grants-out model
- c. The minimum corpus requirements for SIFs may be reduced from Rs. 20 Crores to Rs. 5 Crores, similar to angel funds under AIF
- d. The minimum subscription amount may be set as Rs. 2 lakhs (for individuals). For corporates it shall continue to remain Rs. 1 Crore
- e. The reference to “muted returns” in the SEBI (Alternative Investment Fund) Regulations, 2012 (“AIF Regulations”) may be removed

vii. Disclosure Requirements

The TG recommended that NPO or FPE that are tagged as a social enterprise, may be required to make disclosures on their social impact on annual basis covering aspects such as strategic intent and planning, approach, impact score card etc. Additionally, FPEs shall comply with the disclosure requirements of the segment where they are listed while for

NPOs, there may be a separate set of annual disclosures on governance and financial aspects.

viii. Social Audit

Audit of social impact i.e. Social Audit shall be mandatory for entities on SSE. To begin with, only reputed firms/institutions having relevant expertise may be allowed to carry out social audits. Such institutions shall employ social auditors who have qualified certification course conducted by NISM. Social Auditors will be required to be empanelled with an SRO which is proposed to be under ICAI as a separate Sustainability Directorate.

ix. Capacity Building Fund

A Capacity Building Fund(CBF)of Rs. 100 Crores shall be instituted to enable NPOs and other stakeholders to navigate the SSE and its processes, instruments etc. apart from creating awareness. CBF may be housed in NABARD as an administrative fund.

x. Other recommendations

Certain relaxations in respect of deployment of CSR funds have been recommended in order to provide impetus to fund raising structures. Further, to encourage “giving” culture, some tax incentives have also been recommended.

**4. Key Public Comments received and analysis:**

4.1. A total of 222 comments have been received from 37 entities comprising NGOs, Law firms, Institutions, Academicians etc. We have separately received comments from the MoF vide their letter dated August 17, 2021. The comments are largely in support of the recommendations of the TG. Some have suggested additional support to the proposals. The analysis of the key comments is presented as follows.

4.2. MoF has suggested exploring permitting new players/ existing players to create a separate social stock exchange. Such separate exchange may be given freedom for bringing-in emerging technologies such as block chain based trading technologies.

#### Analysis and comments

SSE may not have a self-sustaining ecosystem to begin with to account for the cost of onboarding, monitoring and supervision of the SEs. Thus, a standalone SSE may be unsustainable. Further, given that there are no conflicts between the traditional segments and the SSE, the existing exchanges can share their infrastructure as well as governance structure towards better synergies for the SSE.

4.3. In all 44 comments were received in respect of the definition of social enterprise/ entities eligible to raise funds on SSE. Of these 8 commentators have suggested additional areas/ activities which can be considered by SSE. One commentator has suggested that the areas/ activities may include gender neutral terms (such as “all children” in place of boys and girls). Some commentators have argued that FPEs may be kept out of SSE. Further, some have also suggested that there is a need to clarify “religious/political” organizations as such organizations can be involved in areas such as education/ healthcare etc.

#### Analysis and comments

- i. Social activities, per se, are a very large set of activities and incorporating each activity, without gauging the merits of social impact, at the initial stage of constitution of SSE would be too cumbersome. The current definition is broad enough to cover areas identified under the Sustainable Development Goals (SDG) and the priority areas identified by NITI Aayog. The TG recognized that there is a possibility that the taxonomy on activities may be missing certain sub-areas, or that new sub-areas can appear. Thus, it has suggested that based on experience gathered by the SSE, the taxonomy needs to be updated on a regular basis. Thus, to begin with we may restrict

access to SSE to enterprises falling under the 15 broad categories and the sub-areas identified by TG.

- ii. We may agree to the suggestion to inculcate gender neutral terms in the taxonomy.
- iii. As regards, keeping FPEs out of SSE, the fears of any cannibalization of funds by FPEs are unfounded as FPE shall be required to meet the same eligibility criteria as NPOs so as to be identified as a social enterprise. Further, such an organization, if it raises capital through equity or debt, would be required to comply with existing stringent norms under securities laws and in addition, would also have to comply with additional disclosure norms in respect of social impact.
- iv. A religious/ political organization carrying out social activity under the 15 broad areas may not be eligible to raise funds as such activities would have an overarching intention to create goodwill for religious/political beliefs. Thus, we may continue with the recommendation of the TG to exclude such entities from the definition of a 'social enterprise'.

4.4. On the aspect of social auditors, 41 comments have been received. Three commentators have argued that permitting only few reputed entities to act as social auditors may not be suitable as it restricts the competition. Many have argued that other agencies such as Bureau of Indian Standards and Indian Institute of Corporate Affairs should also be engaged to conduct certification programs or be considered to form an SRO. One commentator has suggested that an independent apex body may be created at SEBI or NFRA (National Financial Regulatory Authority) level that shall define various modalities for the SROs and assess deviations, if any, by any auditing firm/auditor that is empaneled with any SRO. One commentator has requested to define "experience in development sector".

#### Analysis and comments

- i. Since SSE is a novel concept, we may continue with the TG recommendation that to begin with, only reputed organizations having expertise in social audit should be permitted to act as social auditor.
- ii. As regards creation of an SRO, it is noted that ICAI, through its new Sustainability Board, is building capacity and expertise in the field of integrating SDGs into business reporting. Further, as part of the Technical Group, ICAI has developed draft standards for assurance of impact reporting and code of conduct for social auditors. In view of the level of engagement by ICAI, to begin with, the SRO may be housed under ICAI as a separate sustainability directorate. SEBI may continue monitoring the development in this space going forward. As regards certification, NISM too has started engaging with reputed academic institutions to develop a curriculum for social audit for starting its certification program for social auditors. It is suggested that NISM may also involve other relevant agencies to further develop a comprehensive framework for certifying social auditors.

4.5. On the aspect of funding instruments for NPOs, 19 comments have been received providing diverse views. It has been stated that applicability of FCRA needs clarity especially in respect of development impact bonds and social impact funds (AIF-SVFs). Few commentators including MoF have stated that there is a need to provide for enforcement mechanism including penalty provisions. One commentator has suggested additional instruments such as Foreign ESG Funds, Donor Advised funds etc. However, operational details in this regard have not been provided. One commentator has stated that defining instruments of donations under SCRA is neither necessary nor desirable.

#### Analysis and comments

- i. In line with the recommendations of the expert groups and the public comments, it is proposed that clarity may be sought in respect of applicability of FCRA for foreign funds received for AIF-SVFs.

- ii. With regard to fund raising by NPOs through ZCZP, unless these bonds are notified as a 'security', applicability of securities law including on aspects such as disclosures, enforcement actions etc. would not be feasible. Further, in the case of DIB structures, the intermediary AIF-SVF, as per extant regulation would be required to invest in "securities" of NPOs. ZCZP would help fill in this gap.

4.6. On the requirement for prior registration of NPOs, 15 comments have been received. Many commentators have suggested that requirement of minimum annual spending of Rs 50 lakhs and minimum funds raised of Rs 10 lakh, in the last financial year, may be revisited or removed. MoF-DEA has suggested that the requirement for prior registration may also be made applicable for FPEs, so as to enable them to transition towards a disclosure-based regime.

#### Analysis and comments

- i. TG had deliberated extensively on the thresholds and made recommendations based on fact that since these are early days for SSE, therefore, to begin with these thresholds may be kept at Rs. 50 lakhs (annual spending) and Rs. 10 lakh (funds raised). While lower thresholds may make smaller NPOs eligible, however, their ability for compliance and their scale of operations would be limited.
- ii. As has been deliberated at the WG and TG, one of the biggest tasks for social enterprises on the SSE shall be periodic reporting (financials and social impact) to reduce the trust deficit. It was gathered during deliberations that NPOs have capacity constraints as compared to FPEs. Further, unlike FPEs, which being companies have to comply with uniform norms as mandated by MCA, NPOs lack a single regulator which mandates uniform regulatory framework especially in terms of structure, governance, financials etc. Hence, the requirement for prior registration was warranted for NPOs and not for FPEs.

4.7. On the aspect of disclosures, 20 comments have been received offering diverse views. Few commentators have suggested that periodicity for disclosures may be increased to half yearly. On the other hand, commentators have also stated that currently, NPOs are already overwhelmed by the multiple reporting and compliance requirements. It is critical to let them focus on their work and programs rather than worrying about impact, social audits, annual disclosures, minimum reporting standards, etc. One commentator has suggested to add percentage spend on beneficiaries under Minimum Reporting Standards

#### Analysis and comments

Social impact is one of the most important factor for which a social enterprise raises funds. Disclosures on social impact therefore would be essential in any framework which involves raising money from public. Currently, the proposed framework provides for annual disclosure along with disclosure of events having material impact on the outcomes within 07 days. We may continue with the same. As regards disclosure on percentage spend on beneficiaries, we may consider inclusion of the same in the annual disclosures.

### **5. Proposal- Comprehensive Framework for Social Stock Exchange**

5.1. Based on the recommendations of the WG / TG and feedback received during public consultation, the proposals towards implementing the SSE framework are discussed below. The proposals have been divided into 2 parts. One set of proposals relates to the action points that primarily pertain to SEBI. The other set of proposals is for recommending changes that are critical for the success of the SSE but are outside the jurisdiction of SEBI and require co-ordination with other regulators/ authorities.

#### **5.2. Part I – Action points for SEBI**

##### **5.2.1 Creation of SSE as a separate segment of the existing stock exchanges**

#### **Proposal**

In line with the recommendations of the expert groups, the SSE may be created as a separate segment on existing Stock Exchanges. Towards this end, it is proposed that necessary amendments may be made to SEBI (Issue of Capital and Disclosure Requirements) Regulations, 2018 (“ICDR Regulations”).

### **5.2.2 Eligibility Criteria for Social Enterprises (SEs)**

- i. As recommended by the expert groups, a SE on the SSE, shall demonstrate that social intent and impact are its primary goals and that such intent is demonstrated through its focus on eligible social objectives for the underserved or less privileged populations or regions and thus primacy of its objectives to serve social good.
- ii. In this regard, the expert groups have recommended a combination of the following three criteria to establish the primacy of social impact objective of the social enterprise (SE):
  - a. 15 broad eligible activities based on Schedule VII of the Companies Act, 2013, Sustainable Development Goals and priority areas identified by Niti Aayog. The list of eligible activities is as follows:
    - i. Eradicating hunger, poverty malnutrition and inequality; promoting health care (including mental health) and sanitation; and making available safe drinking water
    - ii. Promoting education, employability and livelihoods
    - iii. Promoting gender equality, empowerment of women and LGBTQIA+ communities
    - iv. Ensuring environmental sustainability, addressing climate change (mitigation and adaptation), forest and wildlife conservation
    - v. Protection of national heritage, art and culture
    - vi. Training to promote rural sports, nationally recognised sports, Paralympic sports and Olympic sports
    - vii. Supporting incubators of social enterprises

- viii. Supporting other platforms that strengthen the non-profit ecosystem in fundraising and capacity building
  - ix. Promoting livelihoods for rural and urban poor, including enhancing income of small and marginal farmers and workers in the non-farm sector
  - x. Slum area development, affordable housing, and other interventions to build sustainable and resilient cities
  - xi. Disaster management, including relief, rehabilitation and reconstruction activities
  - xii. Promotion of financial inclusion
  - xiii. Facilitating access to land and property assets for disadvantaged communities
  - xiv. Bridging the digital divide in internet and mobile phone access, addressing issues of misinformation and data protection
  - xv. Promoting welfare of migrants and displaced persons
- b. SEs shall target underserved or less privileged population segments or regions recording lower performance in the development priorities of national/state governments
- c. SEs shall have at least 67% of its activities qualifying as eligible activities to the target population, to be established through one or more of a. Revenue, b. Expenditure, c. Customer base
- iii. Corporate foundations, political or religious organizations/ activities, professional or trade associations, infrastructure and housing companies (except affordable housing) shall not be permitted as eligible SEs on SSE.
- iv. **Proposal**
- It is proposed that a definition of social enterprise may be introduced in the ICDR Regulations, along the lines of the above recommendation. Suitable cross-references in other regulations such as AIF Regulations and SEBI

(Mutual Funds) Regulations, 1996 (“MF Regulations”), may be made to ensure eligibility for social enterprises using these routes.

### **5.2.3 Prior Registration for NPOs with SSE**

- i. Registration of NPOs, prior to their raising funds through the SSE, shall serve three purposes. Firstly, it brings interested NPOs onto a common platform for legal acclimatization for the purposes of accessing the SSE. Secondly, it inculcates a cultural shift in NPOs and enables transition towards a disclosure driven fund raising system. Thirdly, it provides a means for NPOs (and especially, smaller NPOs) to signal the primacy of social impact and improve the quality of their governance and transparency. This would help even if NPOs later wish to not list any security.

#### **ii. Proposal**

Towards implementation of the aforementioned recommendation, it is proposed that SEBI may, through suitable amendments in the ICDR Regulations, issue guidelines to stock exchanges, for mandatory registration of NPOs. The basic registration criteria (details at **Annexure VI**) may include due diligence on constitutional documentation such as validity of registration certificate, details of ownership and control, valid registration under Income Tax, minimum Rs 50 lakh annual spending in past financial year, and minimum Rs 10 lakhs funds raised in past financial year.

### **5.2.4 Fundraising instruments and Structures for NPOs**

#### **A. Zero Coupon Zero Principal Bonds (ZCZP)**

- i. By law, NPOs face restrictions on their ability to issue debt, equity and units with the notable exception of section 8 companies. NPOs such as Trusts and Societies are not ‘body corporates’ as defined under the Companies Act, and hence in the present legal framework, any bonds or debentures issued by them cannot qualify as securities under the Securities Contracts

(Regulation) Act 1956 (SCRA). NPOs, by nature, have primacy of social impact and are non-revenue generating. Keeping these shortcomings in mind and in order to provide NPOs a direct access to securities market for fund raising, there is a need for introducing a security in the form of zero coupon zero principal bond (ZCZP).

- ii. A ZCZP bond shall have zero coupon and no principal payment at maturity. Thus, it differs from conventional bonds. While, a conventional bond provides a fixed interest/repayment on the funds raised through the various contractual arrangements, ZCZP bond do not offer such returns but promise a social return to the funder. Such a promise carries some probability of being defaulted upon, insofar as the NPO may not deliver the social impact that it promised to create.
- iii. ZCZP will be issued by an NPO for specific social development projects/activities, and such an NPO shall need to show expertise in the targeted areas through social performance of past projects that will allow investors to gain greater insight into the NPO's activities. ZCZP would be required to be notified as a security in SCRA.
- iv. While the trading potential for ZCZPs shall be limited, it is essential to list such securities on the SSE platform so as to enforce disclosure related requirements such as periodic disclosure of impact created and utilization of funds by NPO.
- v. **Proposal**
  - a. It is proposed that a ZCZP issued by an NPO for raising funds on SSE may be notified as a security under SCRA.
  - b. Further, a new chapter may be introduced under ICDR Regulations for issuance of ZCZP bonds by NPOs.

- c. The disclosures in offer document for ZCZPs shall be in terms of differentiators and parameters identified in Annexure III 2(d) of the TG report.
- d. In respect of continuous disclosure requirements, a new Chapter may be introduced under SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015.

**B. Equity or Debt**

A section 8 company may choose to raise funds on SSE by issuing equity or debt instrument. The existing provisions as applicable for other body corporates shall continue to apply for such issuances. Amendments may be carried out in ICDR Regulations to resolve difficulties, if any, in terms of eligibility criteria.

**Social Impact Funds**

- i. Existing SEBI (Alternative Investment Fund) Regulations, 2012 permit 25% of investible funds under of a social venture fund to be provided as a grant to social venture(s). The remaining investible funds are required to be invested in securities.
- ii. **Proposal**
  - a. Social Venture Funds may be rechristened as Social Impact Funds (SIFs).
  - b. In view of the proposal of defining Zero Coupon Zero Principal Bonds (ZCZP) as a security under SCRA, Social Venture Funds will be enabled to invest 100% of their funds in a social enterprise and provide social returns to its investors. A different nomenclature may be created to identify SIFs which employ only ZCZPs for investment. Such units may also have a different nomenclature.

[Note: It has to be examined whether units issued to reckon social returns may be recognized as securities under SCRA, 1956]

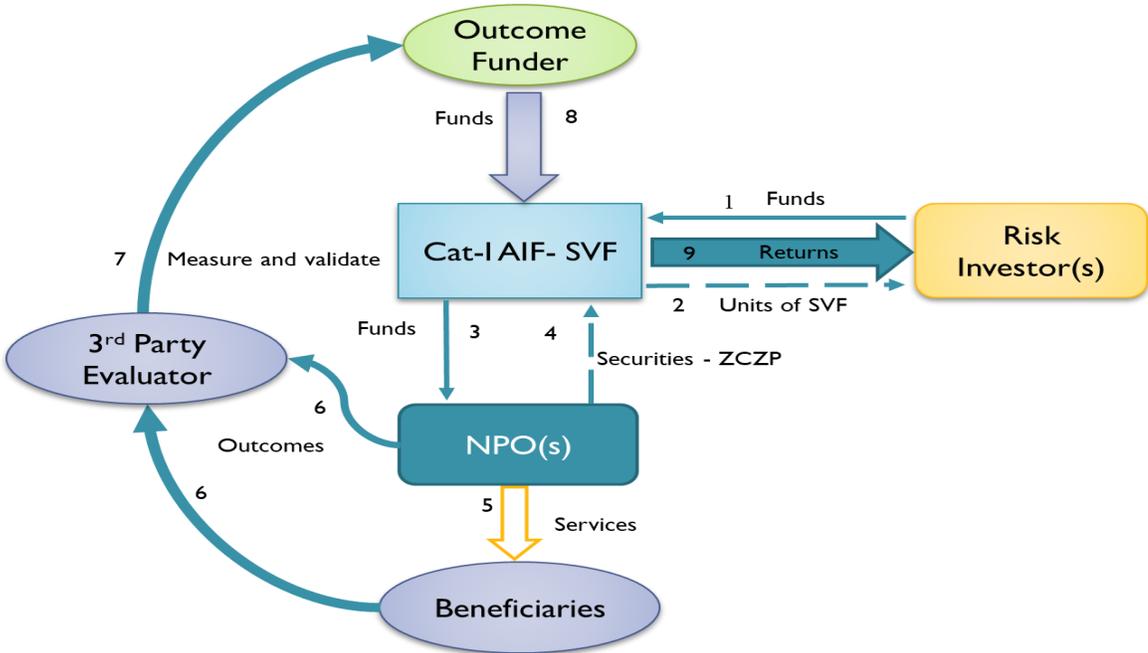
- c. The minimum corpus requirements for SIFs may be reduced from Rs. 20 Crores to Rs. 5 Crores.
- d. The minimum subscription amount may be set as Rs. 2 lakhs (for individuals) for SIFs investing 100% in ZCZP issued by not for profit social enterprises (NPOs) which are registered or listed on the Social Stock Exchange. For corporates it shall continue to remain Rs. 1 Crore.
- e. The reference to “muted returns” in the AIF regulations may be removed
- f. Additional disclosures may be mandated at the initial placement document level and at periodic level to cover aspects such as governance, financials, and social impact etc. and matters mentioned in Annexure III 2(a) of the TG report.
- g. Suitable amendments may be made in the AIF regulations to give effect to the above proposals. No other changes are proposed to the extant regulatory framework for Social Venture Funds at this time.

### C. Development Impact Bonds (DIBs) structure

- i. DIBs is a structured finance product that has evolved in the development sector to create incentives and align payments for social outcomes.
- ii. The basic principle of a DIB structure is that a grant is made to an NPO after it delivers on pre-agreed social metrics at pre-agreed costs/ rates. The donor who makes the grant when the social metrics are achieved is termed as “Outcome Funder”. Given that the outcome funder makes the payment on a post facto basis, the NPO needs to raise funds to finance its operations. Such a funder is termed as “Risk Funder”. A risk funder not only enables financing of operations on a pre-payment basis, but also undertakes the risk of non delivery of social metrics by the NPO. To compensate for this risk, a Risk Funder typically earns a small return if the

social metrics are delivered. Further details on the product is available in the TG report – pages 17-18.

- iii. Connecting DIBs with SSE: An intermediary (AIF-SIF) shall be responsible for bringing the actors viz., risk investors, outcome funder, NPOs, 3<sup>rd</sup> party evaluator (Social Auditor) together to enable this product. DIB structure can be designed around one program and one service provider i.e. NPO, or be structured as a pooling of different service providers on a similar set of programs. Below is a pictorial depiction of the proposed DIB structure through the SSE.



- iv. Currently, in terms of SEBI AIF Regulations, an SVF is required to invest in unlisted securities of social ventures. Accordingly, SVFs presently are investing only in FPEs. Since, NPOs (other than section 8 companies) cannot issue any securities, there is a need to ensure that ZCZP is permitted as a security so as to ensure that DIBs are implementable in SSEs. Further, as regards investments by SVFs in DIB Structures, clarity may be needed on the nature of payments received by an SVF from the outcome funders. i.e. whether such payments can be considered as return on investments.

v. DIB as a structure offer certain advantages as it incorporates reporting on impact metrics, and provides strong governance through the AIF. These structures also provide a financial return to risk investor.

vi. **Proposal**

It is proposed that DIB structures needs more awareness under SSE once ZCZP bonds have been notified as a security. Amendment to appropriate Regulations, if any, will be considered by SEBI.

D. **Mutual Funds**

i. Through this route, the returns (with or without principal) generated on investments in a MF scheme can be routed to NPOs. There are two means for raising funds by NPOs through Mutual Funds viz.

- a. Existing AMCs can collaborate with credible NPOs for donation of returns on investment made by scheme holders. E.g. HDFC Cancer Fund.
- b. Existing AMCs can collaborate with an intermediary in determining credible NPOs for donation of redemption amount from units. E.g. Quantum Mutual Fund in association with HelpYourNGO.

Details on the above methods is available on Page 16 of the TG report.

ii. **Proposal**

It is proposed that SEBI can examine means to encourage the adoption of above mechanisms, including sensitizing AMFI, to enable retail investors to donate to eligible NPOs.

**5.2.5 Fund raising structures for FPEs**

The existing fund raising structures as available for corporates would also be available for FPEs such as equity, debt, AIFs, etc. In addition to existing eligibility criteria and disclosure requirements, FPEs will also have to be eligible as a social enterprise and shall have to make additional disclosures

in terms of the social impact created, as mentioned in the subsequent paragraph.

## **5.2.6 Disclosure Requirements**

### **A. Initial disclosure requirements**

#### **Proposal**

Initial disclosure requirements for various modes of fund raising by SEs shall include disclosure of aspects called “differentiators”, as highlighted in the TG report. The differentiators cover aspects such as vision, target segment, strategy, governance, management, operations, finance, compliance, credibility, social impact and risks. It is proposed that suitable amendments may be made to SEBI Regulations including ICDR Regulations, MF Regulations and AIF Regulations, in this regard.

### **B. Continuous Disclosure Requirements**

#### **Proposal**

- i. SEs shall disclose Social Impact report on annual basis covering aspects such as strategic intent and planning, approach, impact score card etc.
- ii. NPOs on SSE (either registered or listed) will have to disclose on general, governance and financial aspects on an annual basis. The disclosures will include vision, mission, activities, scale of operations, board and management, related party transactions, remuneration policies, stakeholder redressal, balance sheet, income statement, program-wise fund utilization for the year, auditors report etc. NPOs shall be required to comply with Ind AS.
- iii. SEBI may request ICAI to update its Technical Guide on Accounting for NPOs issued earlier in 2009.

- iv. Apart from the annual disclosures, the NPO shall report within 07 days any event that might have a material impact on the planned achievement of their outputs or outcomes, to the exchange in which they are registered/listed. This disclosure will include details of the event, the potential impact and what the NPO is doing to overcome the impact.
- v. FPE listing equity/debt shall, in addition to social impact reporting requirement, comply with the disclosure requirements as per the applicable segment such as main board, SME, IGP, etc.
- vi. SEBI may suitably amend SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 (“LODR Regulations”), AIF Regulations and MF Regulations to enforce reporting requirements.

#### **5.2.7 Social Auditors**

##### **Proposal**

- i. It is proposed that audit of social impact, i.e. social audit shall be mandated for social enterprises raising funds/ registered on SSE.
- ii. Further, to begin with only reputed firms/institutions having expertise in the area of social audit shall be allowed to carry out social audits. Such institutions will employ social auditors who have qualified certification course conducted by NISM.
- iii. A separate sustainability directorate under ICAI shall function as an SRO for Social Auditors (SAs). The functions of SRO shall include empanelment, registration of SAs, laying down standards of professional conduct, suspension/ cancellation of membership of SAs, framing the Social Audit Standard covering aspects such as scope, engagement acceptance, basic principles, audit procedures, assurance report, documentation etc. and prescribing a separate Code of Conduct for SAs.

- iv. SEBI shall engage with NISM and ICAI to take the recommendation forward.

## **5.2.8 Capacity Building Fund (CBF)**

### **Proposal**

- i. In line with the recommendations of the expert groups, it is proposed that to improve the ability of all stakeholders to navigate SSE, its process, instruments etc., a fund with a corpus of Rs 100 Crores may be instituted.
- ii. The fund could also be useful in hand-holding NPOs (which are ready or almost ready for registration) on aspects such as outcomes and impact assessment. The CBF shall work with the exchanges and merchant bankers to determine an affordable fee structure for registration and for listing on the SSE, so as to allow for as much inclusivity as possible. Emerging NPOs may require a financial subsidy to help them pay such fees, and each SSE shall receive 5% of the fund for spending towards this purpose. Exchanges shall also leverage upon ISF for increasing awareness on the investor side of SSE.
- iii. CBF may be housed in NABARD, as an administrative fund. Exchanges and other developmental agencies such as SIDBI shall also contribute. CSR funds may also be permitted to contribute towards CBF. CBF shall be governed through an advisory board comprising of representatives from developmental organizations, stock exchanges, philanthropic community and NPO community.
- iv. SEBI may engage with NABARD, SIDBI and exchanges towards creation and institution of the fund.

## **5.3 Part II - References requiring policy intervention by other regulators / authorities**

- 5.3.1 Other policy interventions are aimed at reducing tax and non-tax compliance, smoothening wrinkles in the major regulations governing the flows of funds

to the social sector, increasing donor/investor participation, and rationalizing anomalies in tax incidence. These are recommended in three broad categories.

**i. Recommendations with respect to CSR**

- a. Funding of NPOs on SSE by companies should count towards CSR commitments. CSR funds should also be considered to act as outcome funder in case of DIB structures. In this regard, there shall be a need to permit parking CSR capital in an escrow account for a period of three years i.e. until the project outcome of the NPOs is materialized. CSR capital, acting as an outcome funder, should also be permitted to grant to NPOs in DIB structure as an ‘accelerator grant’ – a grant to fund non-program expenditure subject to 10% of the program cost.
- b. CSR funds should be permitted to contribute towards capacity building fund of SSE.
- c. Trading of excess CSR spends between companies can be considered by MCA

ii. **Clarity on FCRA:** Section 8 of the FCRA prohibits foreign contribution towards speculative business. Rule 4 of the FCRR defines speculative business as ‘any activity or investment that has an element of risk of appreciation or depreciation of the original investment, linked to market forces, including investment in mutual funds or in shares’. In line with the recommendations of the expert groups and the public comments, a clarity is required in respect this rule as to whether foreign entities shall be eligible to invest in AIF-SVFs as the donors will not be taking decisions/ will not have any discretion on deployment of their funds to specific NPOs.

iii. **Recommendations w.r.t. Tax Policy:** Fund raising through SSE ensures accountability, transparency and periodic reporting of impact. In order to provide an impetus for such fund raising mechanisms and create a vibrant, deep and liquid market for social investments, it will be necessary to provide certain tax incentives, as mentioned below:

- a. Allow philanthropic donors to claim 100% tax exemption for their donations to all NPOs that benefit from the SSE. In India, donations to private NPOs with 80G certification can get only 50% tax deduction, whereas government entities get 100%. This creates an artificial distinction between private and government entities doing similar work.
- b. Allow all investments made in securities/ instruments of NPOs listed on SSE to be tax deductible.
- c. Allow corporates to deduct CSR expenditure that goes to the SSE from their taxable income.
- d. Allow first time retail investors to avail a 100% tax exemption on their investments in the SSE MF structure, subject to an overall limit of Rs. 1 Lakh.
- e. Exempt investors from paying Securities Transaction Tax and Capital Gains Tax on investments/ capital gains on SSE.
- f. Remove the 10% cap on income eligible for deduction under 80G.
- g. Allow a tax holiday of 5 years to FPEs listed on the SSE, from the time of first listing

5.3.2 **Proposal:** It is proposed that SEBI may engage with Ministry of Corporate Affairs, Ministry of Home Affairs and Department of Revenue to take the above recommendations forward.

#### 5.4 **Action matrix**

Based on the above proposals, the action matrix to take steps for implementing the comprehensive framework is tabulated below:

<b>Sr. No.</b>	<b>Broad Recommendation (WG+TG)</b>	<b>Action Point</b>	<b>Agency Concerned</b>
1	SSE shall be a separate segment on existing Stock Exchanges.	Amendment to ICDR Regulations	SEBI and Stock Exchanges
2	Eligibility of a social enterprise, Primacy of Social Impact	Amendment to ICDR Regulations; Cross reference in AIF Regulations and Mutual Fund Regulations.	SEBI

Sr. No.	Broad Recommendation (WG+TG)	Action Point	Agency Concerned
3	NPOs be registered with SSE prior to raising funds through SSE.	Amendments to ICDR Regulations, issuing guidelines to exchanges for mandatory registration of NPOs Exchanges to set registration framework based on amendments in ICDR Regulations	SEBI and Stock Exchanges
4	Public issue of equity (by NPOs / FPEs) FPEs may be listed on Main Board/ SME/ Innovators Growth Platform in terms of existing eligibility and disclosure criteria provided in ICDR Regulations. Further, NPOs may list on the SSE.	Amendments in ICDR Regulations to resolve difficulties, if any, in terms of eligibility criteria for NPOs	SEBI
5	Modes available for fund raising for NPOs other than Equity (section 8 co's.) shall be;  (i) Zero Coupon Zero Principal Bonds (ZCZP)	ZCZP will have to be notified as a security under SCRA  Introduction of new chapter under SEBI (ICDR) Regulations for issuance of ZCZPs by NPOs	MoF to include ZCZP as a security under SCRA  SEBI to amend ICDR to permit ZCZP issuance.
	(ii) Development Impact Bonds	Increase awareness and creation of appropriate regulatory framework	SEBI
	(iii) Social Impact Fund (currently known as Social Venture Fund)	Amendment to AIF Regulations	SEBI
	(iv) Donations by investors through Mutual Funds	SEBI to sensitize AMFI to increase awareness.	SEBI
6	Disclosures	Amendment to ICDR Regulations, LODR Regulations, AIF Regulations, MF Regulations  Updation of technical guide on Accounting for Not-for-Profit Organisations	SEBI  ICAI to amend the technical guide.
7	Social Auditor: Audit of social impact i.e. social	Reference to ICAI; Certification program to be developed by NISM in	ICAI and NISM

<b>Sr. No.</b>	<b>Broad Recommendation (WG+TG)</b>	<b>Action Point</b>	<b>Agency Concerned</b>
	audit shall be mandatory for Social Enterprises on SSE	consultation with ICAI, IRs and reputed institutions	
8	Capacity Building Fund	Reference to NABARD, SIDBI and Stock Exchanges	SEBI to engage with stakeholders for creation of CBF.
9	CSR Related Recommendations	MCA to consider recommendations related to CSR	Ministry of Corporate Affairs
10	Tax related recommendations	Department of Revenue to consider tax related recommendations	Department of Revenue
11	Clarify Rule 4 of FCRA whether foreign entities shall be eligible to invest in SVFs listed on SSE as the donors will not be taking decisions/ will not have any discretion on deployment of their funds to specific NPOs	Clarity required on Rule 4 of Foreign Contribution (Regulation) Rules	Ministry of Home Affairs

## **6 Proposal to the Board**

The Board is requested to consider and approve the framework and proposals for Social Stock Exchange contained in para 5 above. Further, based on the approved framework, specific amendments in the applicable regulations such as ICDR Regulations, LODR Regulations, AIF Regulations, Mutual Fund Regulations etc., shall be subsequently placed before the Board for approval.

### **SSE- WG Recommendations**

Since SSE is a novel concept, the WG provided high level recommendations for Social Stock Exchange in India. The key elements as prescribed in the WG report are as follows:

- 1) Social Stock Exchange shall be a separate segment under the existing stock exchanges
- 2) SSE shall enable social enterprises to raise funds through various modes/ means available within the securities market domain
- 3) A social enterprise shall be eligible to raise funds on SSE only if it is creating measurable social impact and reporting such impact. SSE is agnostic to the legal structure of the social enterprise. However, a social enterprise may be for-profit social enterprise (FPE) or non-profit organization (NPO)
- 4) Fundraising instruments and Structures for NPOs:
  - i. Zero Coupon Zero Principal Bonds: A proposed 'security', aimed at raising funds for a particular project. The investment shall provide social return instead of financial return.
  - ii. Equity or Debt Instruments– In case of Section 8 companies
  - iii. Social Venture Funds: Currently, Alternative Investment Fund guidelines of SEBI permit social venture funds to function as a grants-in, grants out vehicles to the extent of 20% of the investible funds. The grants-in grants-out mechanism needs more awareness. Further, CSR and foreign funds should be permitted to be deployed towards such mechanism.
  - iv. Mutual Funds: Through this route, the returns (with or without principal) generated on investments in a MF scheme can be routed to NPOs. There are two models already in existence namely HDFC Cancer Fund and Quantum Mutual Fund Smile Facility. In HDF Cancer Fund, a close ended debt fund, the returns (without principal) on the investment can be donated to Indian Cancer Society (ICS). In case of Quantum Mutual Fund Smile Facility, any investment (with principal) in Quantum Mutual Fund can be redeemed and transferred to an NPO which has been vetted by "HelpyourNGO" foundation.
  - v. Development Impact Bonds: These are structured finance product where a 'risk investor' invests in a social project undertaken by one or multiple NPOs, and is provided returns by an outcome funder if the social project is

successful in meeting certain pre-determined social outcome. The social outcome is measured by an independent third party evaluator. An intermediary (AIF-SVF) shall be responsible for bringing the actors viz., risk investors, outcome funder, NPOs, 3<sup>rd</sup> party evaluator together to enable this product. WG has recommended that CSR funds should be permitted to act as outcome funder.

5) Fund raising instruments for FPEs:

- i. Equity/ Debt
- ii. AIF- Social Venture Funds excluding the grants-in grants out funds.
- iii. Development impact bond

6) Social enterprises (either NPO or FPE) shall need to commit to minimum reporting standard that brings out the following aspects clearly

- i. state an intent to create positive social impact,
- ii. describe the nature of the impact they wish to create,
- iii. report the impact that they have created.

The minimum reporting standard shall includes sections on general information, governance, funding, and legal and statutory filings/reports etc. The minimum reporting standard as recommended by WG is envisioned to grow in rigour, approaching the desired ideal state of widespread standardized impact measurement and impact reporting.

An FPE shall be required to comply with minimum reporting requirement as well as listing requirements including financial reporting. SEBI shall look into the aspects of eligibility and recalibrate the existing thresholds in the ICDR pertaining to Minimum Net Worth, Average Operating Profit, Prior Holding by QIBs, and Criteria for Accredited Investor (if a role for such investors is envisaged). Listing, compliance and penalty provisions shall be aptly stringent to prevent any misuse of SSE platform by FPEs. To ensure that only bonafide FPEs are able to associate with SSE, SEBI, in consultation with the existing specialist entities, shall work out a mechanism for assessing credentials of the social impact dimensions self-declared by the FPEs

7) Nurturing sector- level infrastructure institutions such as information repositories and social auditors.

- i. Information Repositories (IRs): WG observed that there is a dire lack of robust information on NPOs (legal structure, area of operation, governance, financials etc.) unlike in the for-profit sector. Although some intermediaries do provide information on NPOs, this information covers only a small fraction of all NPOs. Nevertheless, these intermediaries can start functioning as IRs for the SSE in the immediate term. The IRs would perform the functions of enumeration (listing of active NPOs and their activities), standardization (articulating a standard reporting format for NPOs and helping them to do information reporting), and verification (due diligence). Existing IRs, with the help of SSEs, shall consult with the Institute of Chartered Accounts of India (ICAI) to come up with a set of common standards for financial reporting for all NPOs by the end of 2020, which may be utilized for revising the overall reporting format and deciding entry norms in the intermediate term. Any NPO that lists with an SSE should conform to these standards.
- ii. Social Auditors: WG recommends that 'Social auditors', will perform independent verification of impact reporting. It has further recommended that in the immediate term, NPOs on SSE need only self-report and intermediate term onwards (4-7 years later), social auditors can take over this function. WG notes that social auditors will have the capability to evaluate impact in a standardized way.

8) The WG observed that to sustain and grow the flow of funds through SSE, a multi-dimensional policy intervention is required that will mitigate the various impediments to the seamless flow of funds towards the social sector. WG recommended policy intervention in three broad categories: Regulations (aimed at reducing non-tax compliance and smoothening wrinkles in the major regulations governing the flows of funds to the social sector), market making (aimed at kickstarting activity on the SSE) and tax policies (aimed at reducing tax compliance costs, increasing donor/investor participation, and rationalizing anomalies in tax incidence)

- i. The key recommendations with respect to various regulatory frameworks are as under:
  - WG recommends that funding of NPOs on SSE by companies should count towards CSR commitments.

- CSR funds should also be considered to act as outcome funder in case development impact bond. In this regard, there shall be a need to permit parking CSR capital in an escrow account for a period of three years. CSR capital, acting as an outcome funder, should also be permitted to grant to NPOs in DIB structure as an ‘accelerator grant’ -- a grant to fund non- program expenditure subject to 10% of the program cost.
  - CSR funds should be permitted to contribute towards capacity building fund of SSE.
  - Trading of excess CSR spends between companies can be considered by MCA.
  - SCRA to be amended to include ZCZP as a security
  - Clarify Rule 4 of FCRA whether foreign entities shall be eligible to invest in SVFs listed on SSE as the donors will not be taking decisions/ will not have any discretion on deployment of their funds to specific NPOs.
  - SEBI (Alternative Investment Funds )Regulations to be amended to reduce minimum corpus requirement and minimum investment size for SVF. Currently, the minimum corpus requirements is Rs 20 Crore and minimum investment size is Rs 1 Crore.
- ii. Key recommendations related to market making are as under:
- SSE to run a widespread awareness campaign for social enterprises to list on the SSE
  - Setting up a Rs 100 Cr capacity building fund for overall sector development including enhancing awareness of fundraising instruments available on SSE, improving reporting capabilities of smaller NPOs.
- iii. Key recommendations related to tax policy are as under: WG observed that SSE provides means for social enterprises (both for profit and non profit organizations) to raise funds through a regulated mechanism. Fund raising through SSE also ensures accountability, transparency and periodic reporting of impact. In order to provide an impetus for such fund raising mechanisms and create a vibrant, deep and liquid market for social investments, it will be necessary to provide certain tax incentives.
- Allow philanthropic donors to claim 100% tax exemption for their donations to all NPOs that benefit from the SSE. In India, donations to private NPOs with 80G certification can get only 50% tax deduction,

whereas government entities get 100%. This creates an artificial distinction between private and government entities doing similar work.

- Allow all investments made in securities/ instruments of NPOs listed on SSE to be tax deductible.
- Allow corporates to deduct CSR expenditure that goes to the SSE from their taxable income.
- Allow first time retail investors to avail a 100% tax exemption on their investments in the SSE MF structure, subject to an overall limit of Rs. 1 Lakh.
- Exempt investors from paying Securities Transaction Tax and Capital Gains Tax on investments/ capital gains on SSE.
- Remove the 10% cap on income eligible for deduction under 80G.
- Allow a tax holiday of 5 years to FPEs listed on the SSE, from the time of first listing

**(Working Group report available on SEBI Website)**

## SSE- TG Recommendations

### 1. Eligibility of Social Enterprises

A social enterprise, For Profit Enterprise (FPE) and Not for Profit Organisation (NPO), to qualify on the Social Stock Exchange (SSE), should be able to demonstrate that social intent and impact are its primary goals and that such intent is demonstrated through its focus on eligible social objectives for the underserved or less privileged populations or regions. The TG has proposed that a combination of three filters be used to establish the primacy of social impact objective of the social enterprise

- i. 15 broad eligible activities based on Schedule VII of the Companies Act, 2013, Sustainable Development Goals and priority areas identified by Niti Aayog.
- ii. Eligible activities of the SEs shall target underserved or less privileged population segments or regions recorded lower performance in the development priorities of national/state governments
- iii. SE shall have at least 67% of its activities qualifying as eligible activities to the target population, to be established through one or more of the following:
  - a. Revenue
  - b. Expenditure
  - c. Customer base
- iv. Corporate foundations, political or religious organizations/ activities, professional or trade associations, infrastructure and housing companies (except affordable housing) will not be permitted on SSE

### 2. Requirement of Registration for NPOs:

NPOs be registered with SSE prior to raising funds through SSE. Registration criteria includes indicators such as validity of registration certificate, details of ownership and control, valid registration under Income Tax, minimum Rs 50 lakh annual spending in past financial year, and minimum Rs 10 lakhs funds raised in past financial year.

### 3. Instruments available for NPOs:

Modes available for fund raising for NPOs shall be Equity (section 8 co's.), ZCZP (this will have to be notified as a security under SCRA), Development Impact Bonds, Social Impact Fund (currently known as Social Venture Fund) with 100% Grants-in grants out provision, and donations by investors through Mutual Funds

#### **4. Instruments available for FPEs:**

Modes available for fund raising for FPEs shall be Equity, Debt, Development Impact Bonds, and Social Venture Funds.

#### **5. Recasting Social Venture Funds:**

There is a need to encourage investors and philanthropists to participate in SVFs. Some of the changes that the TG has recommended include reducing minimum corpus size from Rs. 20 Cr to Rs. 5 Cr, reducing minimum subscription from Rs. 1 Cr to Rs. 2 lakh, allowing 100% grants, grants out under SVFs, allowing Corporates to invest CSR funds into SVFs with a 100% grants-in, grants out model, changing nomenclature of SVF to Social Impact Funds etc.

#### **6. Offer document content for Social Enterprises (“Differentiators”):**

The offer documents of the SEs for various modes of fund raising shall require disclosure of aspects called “differentiators”. The differentiators cover aspects such as vision, target segment, strategy, governance, management, operations, finance, compliance, credibility, social impact and risks.

#### **7. Listing of FPEs:**

TG observes that sufficient regulatory guidelines including eligibility criteria for listing of securities issued by FPEs exist under various SEBI Regulations. For FPEs, TG recommends that differentiators in addition to extant regulations, as per applicable segment such as main board, SME and IGP, shall be mandated for listing on SSE

#### **8. Disclosures on SSE**

**Entities on SSE shall disclose Social Impact (for NPOs and FPEs) report on annual basis covering aspects such as strategic intent and planning, approach, impact score card etc**

- i. **NPOs on SSE** (either registered or listed) will have to disclose on general, governance and financial aspects on an annual basis. The

disclosures will include vision, mission, activities, scale of operations, board and management, related party transactions, remuneration policies, stakeholder redressal, balance sheet, income statement, program-wise fund utilization for the year, auditors report etc. NPOs shall be required to comply with Ind AS. Further, ICAI shall also update its Technical Guide on Accounting for NPOs issued earlier in 2009.

Apart from the annual disclosures, the NPO shall report within 07 days any event that might have a material impact on the planned achievement of their outputs or outcomes, to the exchange in which they are registered/listed. This disclosure will include details of the event, the potential impact and what the NPO is doing to overcome the impact.

- ii. **FPE listing equity/debt** shall in addition to social impart reporting requirement comply with the disclosure requirements as per the applicable segment such as main board, SME, IGP, etc.

## **9. Social Auditors**

- i. To begin with only reputed firms/institutions having expertise in the area of social audit shall be allowed to carry out social audits. Such institutions will employ social auditors who have qualified certification course conducted by NISM.
- ii. Social Auditors will be required to be empaneled with an SRO which is proposed to be under ICAI as a separate Sustainability Directorate. The governing body of SRO shall majorly comprise of members from social sector as well as members of ICAI/ Sustainability Reporting Standards Board.
- iii. The functions of SRO include registration of SAs, laying down standards of professional conduct, suspension/ cancellation of membership of SAs on grounds set out by it etc. TG recommends that in order to facilitate the new Sustainability Directorate to carry out the aforementioned functions, necessary amendments, if required, may be made to The Chartered Accountants Act, 1949.
- iv. The SRO shall prepare the criteria and list of firms/institutions for the first phase soon after the formation of SSE, and those firms/institutions shall register with the SRO.
- v. The Sustainability Reporting Standards Board of the ICAI shall frame the Social Audit Standard covering aspects such as scope, engagement acceptance, basic principles, audit procedures,

assurance report, documentation etc. ICAI shall also prescribe a separate Code of Conduct for SAs.

#### **10. Information Repositories (IR)**

The TG decided that since this is early days no regulatory intervention is required for the IR. Based on how their role shapes up at a later date, they can be subjected to appropriate checks and balances in the form of regulations governing their role, functions, structure and such other aspects as may be deemed appropriate.

#### **11. Capacity Building Fund**

The TG recommended that the size of the total fund of the corpus be Rs 100 Crores, to improve the ability of all stakeholders to navigate SSE, its process, instruments etc. The fund could also be useful in hand-holding NPOs (which are ready or almost ready for registration) on aspects such as outcomes and impact assessment. Exchanges shall leverage upon ISF for increasing awareness on the investor side of SSE.

CBF, to be housed in NABARD, as an administrative fund. Exchanges and other developmental agencies such as SIDBI shall also contribute. CSR funds should also be permitted to contribute towards CBF. CBF shall be governed through an advisory board comprising of representatives from developmental organizations, stock exchanges, philanthropic community and NPO community

**(Technical Group report available on SEBI Website)**

**(This has been excised for reasons of confidentiality)**

**(Technical Group report available on SEBI Website provides registration criteria)**