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POLICY PAPER

Unpacking SEBI's Vision

Review of the Consultation Paper on Delisting Norms

October 2023

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on Delisting Norms**

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Introduction

Over the past few years, the Securities and Exchange Board of India (“SEBI”) has received several suggestions and representations from the market participants, industry representatives, various stakeholders etc., suggesting review of the current delisting norms including review of reverse book building process and providing an alternate mechanism to the reverse book building process under the SEBI (Delisting of Equity Shares) Regulations, 2021 (“**Delisting Regulations**”).

Currently, the Delisting Regulations set out the framework, inter alia, for the acquirer to provide an exit opportunity to all the public shareholders in case the equity shares of the company are sought to be delisted from the recognised stock exchanges. This exit opportunity is determined at the price arrived when the cumulative shareholding of the acquirer reaches 90% of the total issued shares (“**Discovered Price**”) under the reverse book building mechanism (“**RBB Process**”). In case the Discovered Price is acceptable to the acquirer, the acquirer will be required to accept all the equity shares tendered by the public shareholders up to such Discovered Price. However, in the event, the Discovered Price is not acceptable to the acquirer, the acquirer will have the option to either make a counter-offer to the public shareholders or reject the such Discovered Price.

As we are aware, SEBI constantly attempts to align regulatory requirements with the changing market realities. Accordingly, in an attempt to enhance the efficiency of the current delisting mechanism, SEBI felt that there was a need for a comprehensive review of the current delisting norms. As a result of which, SEBI set up a sub-group under the chairmanship of Shri Keki Mistry comprising of the members from Primary Market Advisory Committee (“**PMAC**”), to provide detailed recommendations to make delisting of companies a more rational and convenient exercise, balancing the interests of all stakeholders, including investors, shareholders, promoters and acquirers in the process. Accordingly, the sub-group on August 8, 2023, submitted its report to PMAC setting out various policy recommendations.

The PMAC agreed with the recommendations issued by the sub-group in its report, and consequently issued the SEBI Consultation Paper on Review of Voluntary Delisting Norms under SEBI Delisting Regulations dated August 14, 2023 (“**SEBI Consultation Paper**”).¹

The SEBI Consultation Paper has reviewed the below aspects of the Delisting Regulations:

- i. The counter-offer mechanism under the RBB Process;
- ii. Alternatives to the RBB Process;
- iii. The definition of “floor price” under the Delisting Regulations;
- iv. The reference date for calculation of the “floor price” under the Delisting Regulations; and
- v. Delisting of Investment Holding Companies.

The SEBI Consultation Paper sets out the recommendations and the proposed amendments to the Delisting Regulations in relation to the above-mentioned issues. We intend to review and analyse the aspects highlighted from i. to iv. as part of this paper.

¹ SEBI Consultation Paper dated August 14, 2023: https://www.sebi.gov.in/reports-and-statistics/reports/aug-2023/consultation-paper-on-review-of-voluntary-delisting-norms-under-sebi-delisting-of-equity-shares-regulations-2021_75335.html.

Review of the Counter-Offer Mechanism

Current Counter-Offer Framework under the Delisting Regulations

The equity shares of a company can be delisted from all the recognised stock exchanges on which they are listed, after an exit opportunity has been provided by the acquirer to all the public shareholders holding the equity shares of the company sought to be delisted, in accordance with Chapter IV of the Delisting Regulations.¹ This exit opportunity is required to be provided by the acquirer at a price that is discovered through the RBB Process.

What is the RBB Process and the Counter-Offer Mechanism?

- i. The floor price will have to be determined in terms of Regulation 8 of the SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 2011 (“**Takeover Regulations**”). Regulation 8 of the Takeover Regulations sets out various parameters that are to be considered in order to determine the price. One has to consider the parameters set out under Regulation 8(2) of the Takeover Regulations (*as specified below*)² in order to determine the price in the case of direct or indirect acquisition of shares or voting rights or control over the target company, where the parameters under Regulation 5(2)³ of the Takeover Regulations are met, then the price shall be the highest of:
 - i. The highest negotiated price per equity share for acquisition under the agreement attracting the obligation to make a public announcement of an open offer (i.e., the share purchase agreement);
 - ii. The volume-weighted average price paid or payable for acquisitions, whether by the acquirer, during the fifty-two weeks immediately preceding the date of the public announcement;
 - iii. The highest price paid or payable for any acquisition, by the acquirer, during the twenty six weeks immediately preceding the date of the public announcement;
 - iv. The volume-weighted average market price of the equity shares for a period of sixty trading days immediately preceding the date of the public announcement as traded on the stock exchange where the maximum volume of trading in the shares of the target company are recorded during such period, provided such shares are frequently traded;
 - v. Where the equity shares are not frequently traded, the price determined by the acquirer and the managers to the open offer taking into account valuation parameters including, book value, comparable trading multiples, and such other parameters as are customary for valuation of shares of such companies;
 - vi. The per share value computed under Regulation 8(5) of the Takeover Code, if applicable.

1 Regulation 7 of the Delisting Regulations.

2 Regulation 8(2) of the Takeover Regulations.

3 a) the proportionate net asset value of the target company as a percentage of the consolidated net asset value of the entity or business being acquired;

b) the proportionate sales turnover of the target company as a percentage of the consolidated sales turnover of the entity or business being acquired; or

c) the proportionate market capitalisation of the target company as a percentage of the enterprise value for the entity or business being acquired;

d) is in excess of eighty per cent, on the basis of the most recent audited annual financial statements, such indirect acquisition shall be regarded as a direct acquisition of the target company for all purposes of these regulations including without limitation, the obligations relating to timing, pricing and other compliance requirements for the open offer.

Review of the Counter-Offer Mechanism

In terms of Regulation 8(3) of the Takeover Regulations, in the case of an indirect acquisition of shares or voting rights or control over the target company, where the parameters under Regulation 5(2)⁴ of the Takeover Regulations are not met, then the price shall be the highest of:

- i. The highest negotiated price per equity share for acquisition under the agreement attracting the obligation to make a public announcement of an open offer (i.e., the share purchase agreement);
 - ii. The volume-weighted average price paid or payable for acquisitions, whether by the acquirer, during the fifty-two weeks immediately preceding the date of the public announcement;
 - iii. The highest price paid or payable for any acquisition, by the acquirer, during the twenty six weeks immediately preceding the date of the public announcement;
 - iv. The highest price paid or payable for any acquisition, by the acquirer, between the earlier of, the date on which the primary acquisition is contracted, and the date on which the intention or the decision to make the primary acquisition is announced in the public domain, and the date of the public announcement;
 - v. The volume-weighted average market price of the equity shares for a period of sixty trading days immediately preceding the earlier of, the date on which the primary acquisition is contracted, and the date on which the intention or the decision to make the primary acquisition is announced in the public domain, as traded on the stock exchange where the maximum volume of trading in the shares of the target company are recorded during such period, provided such shares are frequently traded;
 - vi. The per share value computed under Regulation 8(5) of the Takeover Code, if applicable.
2. Once the floor price is determined in terms of Regulation 8 of the Takeover Regulations, the acquirer will also have the option to provide an indicative price in respect of the delisting offer, which shall be higher than the floor price.⁵
 3. The public shareholders are required to tender their shares and the acquirer will facilitate tendering of shares by the shareholders and settlement of the same, through the stock exchange mechanism.⁶ The bidding period for tendering the shares by the shareholders will commence within a period of seven working days from the date of the detailed public announcement and will remain open for a period of five working days.⁷
 4. The discovered price will be determined as the price at which shares are accepted through eligible bids, that takes the shareholding of the acquirer (along with the persons acting in concert) to 90% of the total issued shares of the company.⁸ If the discovered price is accepted by the acquirer, the delisting offer shall be deemed to be successful. However, in case the post-offer shareholding of the acquirer, along with the shares tendered/ offered by the public shareholders does not reach 90% of the total issued shares of the company, the delisting offer will be considered to have failed.

4 Ibid.

5 Regulation 20(4) of the Delisting Regulations.

6 Regulation 17(2) of the Delisting Regulations.

7 Regulation 17(1) of the Delisting Regulations.

8 Paragraph 13 of Schedule II of the Delisting Regulations.

Review of the Counter-Offer Mechanism

5. An illustration for arriving at the discovered price is given in the table below⁹:

Bid Price (INR)	Number of Investors	Demand (Number of Shares)	Cumulative demand (Number of shares)
550	5	2,50,000	2,50,000
565	8	4,00,000	6,50,000
575	10	2,00,000	8,50,000
585	4	4,00,000	12,50,000
595	6	1,20,000	13,70,000
600	5	1,30,000	15,00,000 ► Final Offer Price
605	3	2,10,000	17,10,000
610	3	1,40,000	18,50,000
615	3	1,50,000	20,00,000
620	1	5,00,000	25,00,000
Total	48	25,00,000	Not applicable

Assuming a floor price of INR 550 per share, and the number of shares required for successful delisting as 15,00,000, the discovered price would be the price at which the acquirer reaches the threshold of 90%, i.e., it would be INR 600 per share.

6. If such discovered price is not acceptable to the acquirer, the acquirer has the option to make a counter-offer to the public shareholders within two working days of the closure of bidding period.¹⁰ The price at which the counter-offer is made by the acquirer should not be less than the book value of the company (as certified by the manager to the delisting offer).¹¹
7. Once a counter-offer is made by the acquirer, the public shareholders are given the opportunity to tender their shares at the counter-offer price through the stock exchange mechanism.¹² The delisting offer is successful if the post counter-offer shareholding of the acquirer, along with the shares tendered/offered by the public shareholders, at the counter-offer price reaches 90% of the total issued shares of the company.

⁹ Schedule II of the Delisting Regulations.

¹⁰ Regulation 22(4) of the Delisting Regulations.

¹¹ Regulation 22(5) of the Delisting Regulations.

¹² Schedule IV of the Delisting Regulations.

Why is a Review of the Counter-Offer Mechanism Needed?

Currently, the Delisting Regulations permit an acquirer to make a counter-offer only if, upon completion of the reverse book building process, the aggregate post-offer shareholding of the acquirer along with the shares tendered by the public shareholders reaches 90% of the total issued shares of the company. However, in case the aggregate post-offer shareholding of the acquirer along with the shares tendered by the public shareholders does not reach 90% of the total issued shares of the company, the Delisting Regulations do not permit the acquirer to make a counter-offer.

This may lead to a scenario where a majority of the public shareholders are in favour of the proposed delisting and have tendered their shares accordingly, however, the delisting offer still fails since the required thresholds are not met. In such cases, the acquirer will not have the option to make a counter-offer to the public shareholders. Further, in terms of Regulation 23(2)(c) of the Delisting Regulations, the acquirer cannot make another delisting offer until a period of six months has lapsed from the failure of the prior delisting offer.¹³ Considering the above-mentioned constraints in the current framework under the Delisting Regulations, the SEBI Consultation Paper has proposed to lower the threshold required to make a counter-offer.

Proposed Counter-Offer Framework

The following mechanism for making a counter-offer has been proposed:

If the discovered price is not accepted by the acquirer or if the cumulative post-offer shareholding of the acquirer fails to reach 90% of the total issued shares of the company, the acquirer will have the option to make a counter-offer if the bids received are higher of:

- i. the difference between the acquirer's shareholding and 75% of the total issued shares of the company; and
- ii. 50% of the public shareholding.

An illustration of the revised counter-offer threshold is set out below:

S. No.	Parameter	Scenario				
		1	2	3	4	5
1	Acquirer Shareholding (i.e., Promoter's Shareholding (A))	25%	35%	52%	68%	74%
2	Public Shareholding (B)	75%	65%	48%	32%	26%
(i)	Difference between the Promoter's Shareholding and 75% [75% – (A)]	50%	40%	23%	7%	1%
(ii)	50% of Public Shareholding [50% of (B)]	37.5%	32.5%	24%	16%	13%
	Higher of (i) and (ii)	50%	40%	24%	16%	13%

¹³ Regulation 23(2)(c) of the Delisting Regulations.

Review of the Counter-Offer Mechanism

We believe that there is a need to revise the current counter-offer framework. As a lower counter-offer threshold would allow an acquirer the opportunity to make a counter-offer that could potentially be accepted based on bids received by public shareholders. Further, this could help ensure successful delisting offers where majority of the public shareholders are in favor of a delisting offer.

Determination of the Counter-Offer Price

Currently, the Delisting Regulations do not prescribe any methodology to determine the counter-offer price and the regulations only prescribe that the counter-offer price shall not be less than the book value of the company as certified by the manager to the offer.¹⁴ Henceforth, the SEBI Consultation Paper has addressed the need for a mechanism or guiding factors to determine the counter-offer price, and have accordingly proposed the below framework:

- i. If the acquirer chooses to make a counter-offer, the counter-offer price will be required to be the higher of:
 - a) volume weighted average price (“**VWAP**”) of the shares tendered/ offered in the RBB Process; and
 - b) the initial floor price disclosed and calculated for the RBB Process, in accordance with the Delisting Regulations.
- ii. In the event, that the cumulative shareholding of the acquirer, along with the shares tendered/ offered by the public shareholders, is less than 90% of the total issued shares of the company, the VWAP will be calculated taking into account all the shares tendered/ offered. In the event, that the cumulative shareholding is equal to or higher than 90% of the total issued shares of the company, the VWAP will be calculated taking into account the shares tendered/ offered up to 90% of the total issued shares of the company.
- iii. The SEBI Consultation Paper also suggests that, in order to help the public shareholders make an informed decision, the VWAP of the shares tendered/ offered in the RBB Process will be calculated and announced within two hours of closure of the bidding period. Further, the acquirer will have the option to choose to offer a price that is higher than the price derived through i(a) and i(b) above.
- iv. In the event the acquirer chooses to proceed to make a counter-offer, the counter-offer is required to be made at a price determined in accordance with the process mentioned above. Once such counter-offer is made, the public shareholders will be given an opportunity to tender their shares at the counter-offer price through the stock exchange mechanism. All the public shareholders (and not just the shareholders that participated in the initial RBB Process) will be given an opportunity to tender their shares at the counter-offer price. This bidding period will also remain open for a period of five working days, which is the same as envisaged under the current Delisting Regulations.
- v. The delisting offer shall be successful if the aggregate post-offer shareholding of the acquirer, along with the shares tendered/ offered by the public shareholders at the counter-offer price, reaches 90% of the total issued shares of the company.

We understand that the proposed framework will reflect the general expectation of the public shareholders who had tendered their shares in the RBB Process and will also help the acquirer with an opportunity to make a meaningful counter-offer that may be accepted, based on interest received from a large portion of the shareholders of the company.

¹⁴ Ibid to 12.

Alternative to the RBB Process

As discussed above, currently the Delisting Regulations, in case of a voluntary delisting, provide for the RBB Process for discovery of the price at which the exit opportunity is provided to all the public shareholders. The SEBI Consultation Paper states that the announcement for delisting of the equity shares of a company usually results in increased volatility and increased speculative activities in the scrip of such company. The reason for such speculation could be the fact that the delisting price is not known to the public, as the delisting price is determined through reverse book building process at a later stage.

In light of: (i) SEBI receiving several representations from various stakeholders for the introduction of an alternative to the reverse book building process; and (ii) recent amendments to the SEBI (Issue of Capital and Disclosure Requirements) Regulations, 2018, which provide for two alternatives to the issuer for listing of its equity shares i.e., by way of the fixed price route or the book-built route, SEBI considered to propose an alternative to the RBB Process in an attempt to bring consistency with the other SEBI regulations.

Further, SEBI also discussed the impact of bringing an alternative to the RBB Process from the perspective of public shareholders. The SEBI Consultation Paper states that the Delisting Regulations provide adequate safeguards to the public shareholders with respect to delisting offers. This is apparent from the fact that a proposal for delisting requires approval of the shareholders through a special resolution and the special resolution can be acted upon only if the votes cast by public shareholders in favour of the proposal are at least two times the votes cast against the proposal. Further, the public shareholders have the right to not offer/tender their shares during the tendering period. Accordingly, SEBI was comfortable in coming up with such a proposal, as it continues to safeguard the interests of the public shareholders.

Alternative to the RBB Process

The SEBI Consultation Paper suggests providing the acquirer with the option of giving an exit opportunity to all public shareholders at a fixed price under certain scenarios. It is proposed that such delisting mechanism would be permitted only for those companies whose shares are frequently traded¹ as defined under the Takeover Regulations. Further, such delisting offer would be subject to the following conditions:

- i. the fixed price offered by the acquirer shall not be lower than the floor price as determined under the Delisting Regulations; and
- ii. the delisting offer shall be successful if the post-offer shareholding of the acquirer along with the shares tendered by the public shareholders, at the price offered by the acquirer, reaches 90% of the total issued shares of the company.

The SEBI Consultation Paper further suggests that any subsequent delisting attempt can be made by the acquirer either through the fixed-price route or pursuant to the reverse book building process, after the six months cooling-off period as currently envisaged under the Delisting Regulations.

1 Regulation 2(1)(j) of the Takeover Regulations defines “frequently traded shares” to mean “shares of a target company, in which the traded turnover on any stock exchange during the twelve calendar months preceding the calendar month in which the public announcement is required to be made under these regulations, is at least ten per cent of the total number of shares of such class of the target company:

Provided that where the share capital of a particular class of shares of the target company is not identical throughout such period, the weighted average number of total shares of such class of the target company shall represent the total number of shares.”

Alternative to the RBB Process

The other provisions of the Chapter IV of the Delisting Regulations relating to, inter alia, opening of the escrow account, issuance of a detailed public announcement, filing of a letter of offer and regulations relating to the payment upon success of the offer would continue to apply in respect of delisting offers being done at a fixed price.

We understand that the fixed price route will be beneficial for both the acquirers and the shareholders. It will give the shareholders certainty with respect to pricing of the delisting offer and would help them decide upfront whether to participate in delisting process or not at the given price. From the perspective of an acquirer, it will benefit the acquirer in arranging the funds for such delisting offers as the price at which the exit offer is being made will be well known in advance. Additionally, by providing a fixed price for delisting, the speculation that emerges in the scrip of the company proposed to be delisted, may also be minimized.

Review of 'Floor Price' under the Delisting Regulations

The PMAC deliberated on the construct of “**Floor Price**” under the Delisting Regulations and has sought to bring about more clarity into this concept by way of its recommendations in the SEBI Consultation Paper.

Floor price has been currently defined under the Delisting Regulations as “the minimum price offered by the acquirer, computed in accordance with Regulation 8 of the Takeover Regulations as amended from time to time, while making the proposal for voluntarily delisting of the equity shares of the company.”¹

While the definition of floor price under the Delisting Regulations is intrinsically linked to Regulation 8 of the Takeover Regulations, it is pivotal to note that the construct of floor price under the Takeover Regulations was conceived keeping in mind open offers where companies continue to remain listed. Accordingly, the PMAC stressed on the need of establishing a separate definition for floor price under the Delisting Regulations. We have discussed the process for determination of floor price under the Takeover Regulations in detail above (under the ‘Review of the counter-offer mechanism’ sub-head).

In light of the same, the PMAC introduced: (a) certain thresholds for establishing the floor price for delisting offers under the Delisting Regulations for Frequently Traded Shares and Infrequently Traded Shares respectively; and (b) introduction of an additional metric of “**Adjusted Book Value**”.

Parameters for Establishing Floor Price

The PMAC established the below-mentioned metrics for “Floor Price” in order to ensure that the floor price calculated precisely determines the value of the equity shares of the company.

Frequently Traded Shares

Frequently Traded Shares have been defined under the Takeover Regulations as:

“shares of a target company, in which the traded turnover on any stock exchange during the twelve calendar months preceding the calendar month in which the public announcement is required to be made under the Takeover Regulations is at least 10% of the total number of shares of such class of the target company.”²

1 Regulation 2(m) of the Delisting Regulations.

2 Regulation 2(j) of the Takeover Regulations.

Review of 'Floor Price' under the Delisting Regulations

The PMAC has proposed that the floor price for “Frequently Traded Shares” under the Delisting Regulations should be the highest of:

- i. volume weighted average price paid or payable for acquisitions, by the acquirer, along with persons acting in concert, during the fifty two weeks immediately preceding the reference date;
- ii. the highest price paid or payable for any acquisition, by the acquirer, along with persons acting in concert, during the twenty six weeks immediately preceding the reference date;
- iii. the volume weighted average market price for a period of sixty trading days immediately preceding the reference date, on the stock exchange where the maximum trading volume of the equity shares is recorded; and
- iv. adjusted book value (considering consolidated financials) as determined by an independent registered valuer.

Infrequently Traded Shares

The SEBI Consultation Paper proposes that the floor price for “Infrequently Traded Shares” will be the highest of:

- i. volume weighted average price paid or payable for acquisitions, by the acquirer, along with persons acting in concert, during the fifty two weeks immediately preceding the reference date;
- ii. the highest price paid or payable for any acquisition, by the acquirer, along with persons acting in concert, during the twenty six weeks immediately preceding the reference date;
- iii. price determined by an independent registered valuer, taking into account valuation parameters such as the book value, comparable trading multiples, and any other customary valuation metrics for valuation of shares of companies in the same industry; and
- iv. adjusted book value as determined by an independent registered valuer.

Definition of 'Adjusted Book Value'

The above-mentioned parameters for establishing the floor price also introduces the concept of “Adjusted Book Value”. The PMAC ushered in this new metric in order to ensure that the fair market value of the assets of the company being delisted is factored in while establishing the floor price.

Review of 'Floor Price' under the Delisting Regulations

The adjusted book value of the company shall be:

$$A + B + C + D - L$$

which have the below-mentioned connotations:

A	Book value of all the assets (other than jewellery, artistic work, shares & securities and immovable property) in the balance sheet;
B	Price which jewellery and artistic work would get if sold in the open market on the basis of the valuation report obtained from a registered valuer;
C	Fair market value of unquoted/ infrequently trade shares and securities as determined considering the internationally accepted valuation methods by the registered valuer. If the shares and securities are quoted and frequently traded on any recognized stock exchange, the fair market value of such shares and securities shall be the transaction value as recorded in such stock exchange as on the valuation date;
D	The value adopted or assessed by any Governmental authority for the purpose of payment of stamp duty in respect of the immovable property. In case immovable property is located outside India, market value of the property shall be determined by the independent registered valuer; and
L	Book value of liabilities shown in the balance sheet. However, the "liabilities" shall not include the below: <ul style="list-style-type: none"> i. the paid-up capital in respect of equity shares; ii. the amount set apart for payment of dividends on preference shares and equity shares where such dividends have not been declared before the date of transfer at a general meeting of the company; iii. reserves and surplus, even if the resulting figure is negative, other than those set apart towards depreciation; iv. any amount representing provisions made for meeting liabilities, other than ascertained liabilities; and v. any amount representing contingent liabilities other than arrears of dividends payable in respect of cumulative preference shares.

With the introduction of the above-mentioned recommendations, the SEBI Consultation Paper has sought to bring more clarity in the definition of "Floor Price" and has strived to ensure that this definition is tailored specifically to those companies which are undergoing delisting, in comparison to the prior definition of floor price, which was drafted in the context of open offers where companies continue to remain listed.

Further, we understand that the proposed parameters will ensure that the floor price accurately reflects the value of the equity shares of a company which is proposed to be delisted.

Review of 'Reference Date' for Determination of the Floor Price

The PMAC mulled over the reference date to be taken for the calculation of the floor price. Regulation 20(3) of the Delisting Regulations stipulates that the reference date for the purposes of calculating the floor price will be the date on which the recognized stock exchange was to be notified of the board meeting at which the delisting proposal was deliberated and adopted (“**Reference Date**”).

As per the Delisting Regulations, the acquirer is mandated to make an initial public announcement to the all registered stock exchanges on which the shares of the company are listed prior to undertaking delisting.¹ Subsequently, the board of directors of the company is obligated to approve the proposal for delisting within twenty-one days from the date of the initial public announcement.²

The PMAC acknowledged that the period of time between:

- a) the date of the initial public announcement or the date of prior intimation to the stock exchanges of the board meeting, as applicable; and
- b) the Reference Date, may result in erratic trading activity.

This gap in time may result in a window whereby the market activity in relation to the shares of the company will fluctuate significantly which could substantially skew the floor price taken on the Reference Date.

To alleviate and address the above-mentioned hurdle, the SEBI Consultation Paper has proposed that the floor price should be an “undisturbed price” taken as of the “reference date” when the information in relation to the proposed delisting is first disclosed to the public i.e. the date of the initial public announcement or the date on which the prior intimation is required to be given to the stock exchanges, as applicable.

By way of this recommendation, the PMAC has sought to ensure that the floor price accurately reflects the intrinsic value of the company untainted by price fluctuations stemming from the market reacting to the delisting proposal. This suggestion strives to enhance the fairness and the transparency of the delisting mechanism by creating a more equitable playing field for all stakeholders involved in this process.

1 Regulation 8(1) of the Delisting Regulations.

2 Regulation 10(1), SEBI (Delisting of Equity Shares) Regulations, 2021.

Conclusion

The SEBI Consultation Paper represents a significant step towards refining and modernizing the regulatory framework governing delisting in India. This comprehensive review revisits and addresses several critical aspects of delisting, such as the reverse book building process, counter-offer mechanism, and the recalibration of floor price under the Delisting Regulations.

While the SEBI Consultation Paper represents a significant stride towards enhancing the regulatory landscape for delisting, it is crucial that the recommendations and revisions are implemented carefully and judiciously. Striking the right balance between the interests of the acquirer and minority shareholders is paramount, and SEBI must continue to engage with market participants and stakeholders to refine the proposed changes further.

Nonetheless, the SEBI Consultation Paper signifies a forward-looking approach to regulatory reform in India's capital markets. By addressing key challenges and proposing innovative solutions, SEBI is poised to create a more dynamic, investor-friendly, and efficient platform for delisting.

About NDA

At Nishith Desai Associates, we have earned the reputation of being Asia's most Innovative Law Firm — and the go-to specialists for companies around the world, looking to conduct businesses in India and for Indian companies considering business expansion abroad. In fact, we have conceptualized and created a state-of-the-art Blue Sky Thinking and Research Campus, Imaginarium Aligunjan, an international institution dedicated to designing a premeditated future with an embedded strategic foresight capability.

We are a research and strategy driven international firm with offices in Mumbai, Palo Alto (Silicon Valley), Bengaluru, Singapore, New Delhi, Munich, and New York. Our team comprises of specialists who provide strategic advice on legal, regulatory, and tax related matters in an integrated manner basis key insights carefully culled from the allied industries.

As an active participant in shaping India's regulatory environment, we at NDA, have the expertise and more importantly — the VISION — to navigate its complexities. Our ongoing endeavors in conducting and facilitating original research in emerging areas of law has helped us develop unparalleled proficiency to anticipate legal obstacles, mitigate potential risks and identify new opportunities for our clients on a global scale. Simply put, for conglomerates looking to conduct business in the subcontinent, NDA takes the uncertainty out of new frontiers.

As a firm of doyens, we pride ourselves in working with select clients within select verticals on complex matters. Our forte lies in providing innovative and strategic advice in futuristic areas of law such as those relating to Blockchain and virtual currencies, Internet of Things (IOT), Aviation, Artificial Intelligence, Privatization of Outer Space, Drones, Robotics, Virtual Reality, Ed-Tech, Med-Tech and Medical Devices and Nanotechnology with our key clientele comprising of marquee Fortune 500 corporations.

The firm has been consistently ranked as one of the Most Innovative Law Firms, across the globe. In fact, NDA has been the proud recipient of the Financial Times–RSG award 4 times in a row, (2014-2017) as the Most Innovative Indian Law Firm.

We are a trust based, non-hierarchical, democratic organization that leverages research and knowledge to deliver extraordinary value to our clients. Datum, our unique employer proposition has been developed into a global case study, aptly titled 'Management by Trust in a Democratic Enterprise,' published by John Wiley & Sons, USA.

Research@NDA

Research is the DNA of NDA. In early 1980s, our firm emerged from an extensive, and then pioneering, research by Nishith M. Desai on the taxation of cross-border transactions. The research book written by him provided the foundation for our international tax practice. Since then, we have relied upon research to be the cornerstone of our practice development. Today, research is fully ingrained in the firm's culture.

Over the years, we have produced some outstanding research papers, reports and articles. Almost on a daily basis, we analyze and offer our perspective on latest legal developments through our "Hotlines". These Hotlines provide immediate awareness and quick reference, and have been eagerly received. We also provide expanded commentary on issues through detailed articles for publication in newspapers and periodicals for dissemination to wider audience. Our NDA Labs dissect and analyze a published, distinctive legal transaction using multiple lenses and offer various perspectives, including some even overlooked by the executors of the transaction. We regularly write extensive research papers and disseminate them through our website. Our ThinkTank discourses on Taxation of eCommerce, Arbitration, and Direct Tax Code have been widely acknowledged.

As we continue to grow through our research-based approach, we now have established an exclusive four-acre, state-of-the-art research center, just a 45-minute ferry ride from Mumbai but in the middle of verdant hills of reclusive Alibaug-Raigadh district. Imaginarium AliGunjan is a platform for creative thinking; an apolitical ecosystem that connects multi-disciplinary threads of ideas, innovation and imagination. Designed to inspire 'blue sky' thinking, research, exploration and synthesis, reflections and communication, it aims to bring in wholeness — that leads to answers to the biggest challenges of our time and beyond. It seeks to be a bridge that connects the futuristic advancements of diverse disciplines. It offers a space, both virtually and literally, for integration and synthesis of knowhow and innovation from various streams and serves as a dais to internationally renowned professionals to share their expertise and experience with our associates and select clients.

We would love to hear from you about any suggestions you may have on our research publications. Please feel free to contact us at research@nishithdesai.com.

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