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Rationalization of provisions relating to lock in of promoter's shareholding

Background

SEBI issued a consultation paper on Review of the regulatory framework of promoter, promoter group and group companies as per Securities and Exchange Board of India (Issue of Capital and Disclosure Requirements) Regulations, 2018 on May 11, 2021, for public comments.

The objective of the consultation paper was to sense the pulse of the market on following aspects:

- Reduction in lock-in period for minimum promoter's contribution and other shareholders for public issuance on the Main Board
- Rationalization of the definition of Promoter Group
- Streamlining the disclosures of group companies
- Shifting from concept of 'promoter' to concept of 'person in control'

In May 2019, Primary Markets Advisory Committee (PMAC) had constituted a subgroup to examine the relevance of 'concept of promoter' in the context of Indian Securities Market.

Moreover, SEBI received various recommendations on the consultation paper and now has come up with notification to amend existing conditions framed under the ICDR Regulation.

Proposed Amendment

As per **Notification No. SEBI/LAD-NRO/GN/2021/45** via SEBI (Issue of Capital and Disclosure Requirements) (Third Amendment) Regulations, 2021, SEBI made some relaxations pertaining to the lock in requirements for promoter shareholding which are encapsulated as under :

Sr. No.	Regulation Reference	Particulars	Existing Provision	Amended Provision
1	Regulation 16 read with Regulation 115	**Conditions:** 1. The IPO is entirely an offer for sale('OFS') **OR** 2. The **majority** of the issue proceeds excluding the portion of OFS are not proposed to be utilized for capital expenditure Explanation: For the purpose of this regulation, "capital expenditure" shall include civil work, miscellaneous fixed assets, purchase of land, building and plant and machinery, etc. Quantum of shares locked in – 20% of the shares held by promoters	**Lock in would be 3 years** from the date of commencement of commercial production or date of allotment in the initial public offer, whichever is later	**18 months** from the date of allotment in IPO/FPO
3	Regulation 17	Lock-in period for entire pre-issue capital held by persons other than the promoters	**1 year** from the date of allotment in the IPO	**6 months** from the date of allotment in IPO
4	Regulation 17	Holding period for VC Fund, AIF of category I & II or Foreign Venture Capital Investor	**1 year** from the date of purchase	**6 months** year from the date of purchase
5	Regulation 117	Lock-in for specified securities which are are partly paid-up	**3 years** after such specified securities have become pari passu with the specified securities issued to the public	**18 months** after such specified securities have become pari passu with the specified securities issued to the public

The definition of promoter group is further rationalized. Earlier, In case where the promoter of the issuer company was body corporate, any body corporate in which a group of individuals or companies or combinations companies hold 20% or more of the equity share capital of the body corporate and of the issuer were considered as a promoter. Now it is proposed to delete the indirect shareholding held by the individual promoters in corporate shareholder of the listed company.

The above definition of the promoter group focused on capturing holdings by a common group of individuals or persons which often resulted in capturing unrelated companies with common financial investors. Capturing the details of holdings by financial investors while being a challenging task, may not result in any meaningful information to investors. Further, post listing, it was more relevant to identify and disclose related parties and related party transactions. Accordingly, this deletion will rationalize the disclosure burden and bring it in line with the post listing disclosure requirements.

RBSA Comments

Amendments brought in by SEBI in relation to lock in of promoter's shareholding and amendment in definition of promoter group definition will improve transparency thereby removing redundancy. Relaxing the lock-in period of promoters rationalizes the compliance and provide investment flexibility to AIFs, VCs.

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