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SECURITIES AND EXCHANGE BOARD OF INDIA

NOTIFICATION

Mumbai, the 30th March, 2021

**SECURITIES AND EXCHANGE BOARD OF INDIA (STOCK BROKERS)
(AMENDMENT) REGULATIONS, 2021**

No. SEBI/LAD-NRO/GN/2021 14 — In exercise of the powers conferred under Section 30 of the Securities and Exchange Board of India Act, 1992 (15 of 1992), the Board hereby makes the following regulations to amend the Securities and Exchange Board of India (Stock Brokers) Regulations, 1992, namely: –

1. These regulations may be called the Securities and Exchange Board of India (Stock Brokers) (Amendment) Regulations, 2021.
2. They shall come into force on the date of their publication in the Official Gazette.
3. In the Securities and Exchange Board of India (Stock Brokers) Regulations, 1992, —
 - I. In regulation 2,
 - i. In sub-regulation (1), in clause (ad) the words “Securities Contracts (Regulation) (Stock Exchanges and Clearing Corporations) Regulations, 2012” shall be replaced by “Securities Contracts (Regulation) (Stock Exchanges and Clearing Corporations) Regulations, 2018”
 - ii. In sub-regulation (1) after Clause (h) the following shall be inserted namely-
 - “(i) “*Underwriter*” means a person who engages in the business of underwriting of an issue of securities of a body corporate.

(j) *“Underwriting” means “an agreement to subscribe to or procure subscription for securities, issued or offered for sale, remaining unsubscribed.”*

(k) *“issue” means an offer of sale or purchase of securities by any body corporate, or by any other person or group of persons on its or his or their behalf, as the case may be, to or from the public, or the holders of securities of such body corporate or person or group of persons through a merchant banker;”*

iii. in sub-regulation (2) the words “Companies Act, 1956” shall be replaced by “Companies Act, 2013”

II. In regulation 3,

- (i) after sub-regulation (3), the following shall be inserted, namely, —
“(4) Every stock broker holding a valid certificate of registration shall be entitled to act as an underwriter”

III. In regulation 9,

- (i) after Clause (g), the following shall be inserted, namely, -
“h. Every stock broker who act as an underwriter shall enter into a valid agreement with the body corporate on whose behalf it is acting as underwriter and shall abide by the regulations made under the Act in respect of the activities carried on by it as underwriter.

i. Every Stock Broker shall be entitled to act as an underwriter only out of its own net worth/funds as may be prescribed from time to time.”

IV. In regulation 17,

- (i) after sub-regulation (3), the following shall be inserted, namely, -
“(4) (1) Subject to the provisions of any other law, every Stock Broker acting as an underwriter shall keep and maintain the following books of account and documents, namely: —

(a) In relation to an underwriter being a body corporate—

- (i) a copy of the balance sheet and profit and loss account as at the end of each accounting period;
(ii) a copy of the auditor’s report on the accounts for that period;

(b) In relation to an underwriter not being a body corporate—

- (i) records in respect of all sums of money received and expended by them and the matters in respect of which the receipt and expenditure take place; and
- (ii) their assets and liabilities.

(2) Every Stock Broker acting as an underwriter shall also maintain the following records with respect to—

- a) details of all agreements
- b) total amount of securities of each body corporate subscribed to in pursuance of an agreement
- c) such other records as may be specified by the Board for underwriting.

(5) Agreement with clients

Every stock broker acting as an underwriter shall enter into an agreement with each body corporate on whose behalf it is acting as underwriter and the said agreement shall, amongst other things, provide for the following, namely: —

- a) the period for which the agreement shall be in force;
- b) the allocation of duties and responsibilities between the underwriter and the client
- c) the amount of underwriting obligations;
- d) the period, within which the underwriter has to subscribe to the issue after being intimated by or on behalf of such body corporate;
- e) the amount of commission or brokerage payable to the underwriter;
- f) details of arrangements, if any, made by the underwriter for fulfilling the underwriting obligations.

(6) General responsibilities of a Stock Broker as an underwriter

- a) Every Stock Broker acting as an underwriter shall not derive any direct or indirect benefit from underwriting the issue other than the commission or brokerage payable under an agreement for underwriting.
- b) The total underwriting obligations under all the agreements shall not exceed twenty times of the net worth.
- c) Every Stock Broker acting as an underwriter, in the event of being called upon to subscribe for securities of a body corporate pursuant to an agreement shall subscribe to such securities within 45 days of the receipt of such intimation from such body corporate.”

V. In Regulation 27,

- (i) In the title, the words, “Enquiry Proceeding Regulations” shall be replaced by “Securities and Exchange Board of India (Intermediaries) Regulations, 2008”
- (ii) In Clause (v), the words “Companies Act, 1956” shall be replaced by “Companies Act, 2013”
- (iii) In Clause (vi), the words “Companies Act, 1956” shall be replaced by “Companies Act, 2013”

VI. In Schedule II, after clause D, the following shall be inserted, namely, -

“E – Duty as an underwriter

In addition to duties specified above, the Stock Broker while acting as an Underwriter shall comply with following:

1. A Stock Broker shall make all efforts to protect the interests of its clients.
2. A Stock Broker shall ensure that it and its personnel will act in an ethical manner in all its dealings with a body corporate making an issue of securities (hereinafter referred to in the Schedule as “the issuer”).
3. A Stock Broker shall not make any statement, either oral or written, which would misrepresent—
 - a. the services that the underwriter is capable of performing for its client, or has rendered to any other issuer company;
 - b. his underwriting commitment.
4. A Stock Broker shall avoid conflict of interest and make adequate disclosure of its interest.
5. A Stock Broker shall put in place a mechanism to resolve any conflict of interest situation that may arise in the conduct of its business or where any conflict of interest arises, shall take reasonable steps to resolve the same in an equitable manner.
6. A Stock Broker shall make appropriate disclosure to the client of its possible source or potential areas of conflict of duties and interest while acting as underwriter which would impair its ability to render fair, objective and unbiased services.
7. A Stock Broker shall not divulge to other issuer, press or any party any confidential information about its issuer company, which has come to its

knowledge and deal in securities of any issuer company without making disclosure to the Board and also to the Board of directors of the issuer company.

8. A Stock Broker shall ensure that any change in registration status/any penal action taken by board or any material change in financials which may adversely affect the interests of clients/investors is promptly informed to the clients and any business remaining outstanding is transferred to another registered person in accordance with any instructions of the affected clients/investors.
9. (a) A Stock Broker or any of its employees shall not render, directly or indirectly any investment advice about any security in the publicly accessible media, whether real-time or non-real-time, unless a disclosure of its interest including its long or short position in the said security has been made, while rendering such advice.

(b) In case, an employee of a Stock Broker is rendering such advice, the Stock Broker shall ensure that he shall disclose its interest, the interest of dependent family members and that of the employer including their long or short position in the said security, while rendering such advice.
10. A Stock Broker or any of its directors, partners or manager having the management of the whole or substantially the whole of affairs of the business, shall not either through its account or their respective accounts or through their associates or family members, relatives or friends indulge in any insider trading.
11. A Stock Broker acting as an underwriter shall not indulge in any unfair competition, which is likely to be harmful to the interest of other entities acting as underwriters carrying on the business of underwriting or likely to place such other underwriters in a dis-advantageous position in relation to the underwriter while competing for, or carrying out any assignment.
12. An underwriter shall not be party to or instrumental for—
 - (a) creation of false market;
 - (b) price rigging or manipulation; or
 - (c) passing of unpublished price sensitive information in respect of securities which are listed or proposed to be listed in any stock exchange to any person or intermediary.”

VII. In Schedule VI,

(i) after clause 5, the following shall be inserted, namely, -

“(6) Every Stock Broker shall be entitled to act as an underwriter only out of its own net worth/funds as may be prescribed from time to time.”

AJAY TYAGI
CHAIRMAN
SECURITIES AND EXCHANGE BOARD OF INDIA

Footnotes:

1. Securities and Exchange Board of India (Stock Brokers and Sub-Brokers) Regulations, 1992, the Principal Regulations, was published in the Gazette of India on October 23, 1992 vide S.O. No. 780 (E)

2. The Principal Regulations were subsequently amended on:

(a) November 28, 1995 by the SEBI (Payment of Fees) (Amendment) Regulations, 1995 vide S.O. No. 939 (E).

(b) January 5, 1998 by SEBI (Stock Brokers and Sub-Brokers) (Amendment) Regulations, 1998 vide S.O. No. 13 (E).

(c) January 21, 1998 by SEBI (Stock Brokers and Sub-Brokers) (Second Amendment) Regulations, 1998 vide S.O. No. 75 (E).

(d) December 16, 1998 by SEBI (Stock Brokers and Sub-Brokers) (Third Amendment) Regulations, 1998 vide S.O. No. 1078 (E).

(e) July 6, 1999 by SEBI (Stock Brokers and Sub-Brokers) (Amendment) Regulations, 1999 vide S.O. No. 541 (E).

(f) March 14, 2000 by SEBI (Stock Brokers and Sub-Brokers) (Amendment) Regulations, 2000 vide S.O. No. 234 (E).

(g) March 28, 2000 by SEBI (Appeal to Securities Appellate Tribunal) (Amendment) Regulations, 2000 vide S.O. No. 278 (E).

(h) August 30, 2000 by SEBI (Stock Brokers and Sub-Brokers) (Second Amendment) Regulations, 2000 vide S.O. No. 787 (E).

(i) May 29, 2001 by SEBI (Investment Advice by Intermediaries) (Amendment) Regulations, 2001 vide S.O. No. 476(E).

- (j) November 15, 2001 by SEBI (Stock Brokers and Sub-Brokers) (Amendment) Regulations, 2001 vide S.O. No. 1128 (E).
- (k) February 20, 2002 by SEBI (Stock Brokers and Sub-Brokers) (Amendment) Regulations, 2002 vide S.O. No. 220 (E).
- (l) September 27, 2002 by SEBI (Procedure for Holding Enquiry by Enquiry Officer and Imposing Penalty) Regulations, 2002 vide S.O. No. 1045 (E).
- (m) September 23, 2003 by the SEBI (Stock Brokers and Sub-Brokers) (Amendment) Regulations, 2003 vide S.O. No. 1095 (E).
- (n) November 20, 2003 by the SEBI (Stock Brokers and Sub-Brokers) (Second Amendment) Regulations, 2003 vide F. No. SEBI /LAD /20795 /2003.
- (o) March 10, 2004 by the Securities and Exchange Board of India (Criteria for Fit and Proper Person) Regulations, 2004 vide S.O. No. 398(E).
- (p) August 1, 2006 by the SEBI (Stock Brokers and Sub-Brokers) (Amendment) Regulations, 2006 vide S.O. No. 1235 (E).
- (q) September 7, 2006 by the Securities and Exchange Board of India (Stock Brokers and Sub-Brokers) (Second Amendment) Regulations, 2006 vide S.O. No. 1447 (E).
- (r) September 25, 2006 by the Securities and Exchange Board of India (Stock Brokers and Sub-Brokers) (Third Amendment) Regulations, 2006 vide S.O. No. 1600(E).
- (s) May 26, 2008 by the Securities and Exchange Board of India (Intermediaries) Regulations, 2008 vide Notification No. LAD-NRO/GN/2008/11/126538.
- (t) August 11, 2008 by the Securities and Exchange Board of India (Stock Brokers and Sub Brokers) (Amendment) Regulations, 2008 vide Notification No. LADNRO/GN/2008/20/134766.
- (u) June 29, 2009 by the Securities and Exchange Board of India (Payment of Fees) (Amendment) Regulations, 2009 vide Notification No. LADNRO/ GN/2009-10/11/167759.
- (v) November 19, 2009 by the Securities and Exchange Board of India (Stock Brokers and Sub-Brokers) (Amendment) Regulations, 2009 vide Notification No. LADNRO/GN/2009-10/21/183853.

(w) April 13, 2010 by the Securities and Exchange Board of India (Stock Brokers and Sub Brokers) (Amendment) Regulations, 2010 vide Notification No. LADNRO/GN/2010-11/06/1097.

(x) April 6, 2011 by the Securities and Exchange Board of India (Stock Brokers and Sub-Brokers) (Amendment) Regulations, 2011 vide Notification No. F. No. LAD – NRO/ GN/ 2011 – 12/01/11486.

(y) April 19, 2011 by the Securities and Exchange Board of India (Change in Conditions of Registration of Certain Intermediaries) (Amendment) Regulations, 2011 vide Notification No. LAD/NRO/GN/2011-12/03/12650.

(z) August 17, 2011 by the Securities and Exchange Board of India (Stock Brokers and Sub-Brokers) (Second Amendment) Regulations, 2011 vide Notification No. LAD-NRO/GN/2011- 12/19/26273

(za) April 5, 2013 by the Securities and Exchange Board of India (Stock Brokers and Sub-Brokers) (Amendment) Regulations, 2013 vide Notification No. LAD-NRO/GN/2013-14/01/8129

(zb) September 27, 2013 by the Securities and Exchange Board of India (Stock Brokers and Sub-Brokers) (Second Amendment) Regulations, 2013 vide Notification No. No. LADNRO/GN/2013-14/25/24775

(zc) May 23, 2014 by the Securities and Exchange Board of India (Payment of Fees) (Amendment) Regulations, 2014 vide Notification No. LAD-NRO/GN/2014-15/03/1089

(zd) October 8, 2014 by the Securities and Exchange Board of India (Stock Brokers and Sub-Brokers) (Amendment) Regulations, 2014 vide Notification No. LAD-NRO/GN/2014-15/15/1671

(ze) September 8, 2015 by the Securities and Exchange Board of India (Stock Brokers and Sub-Brokers)(Amendment) Regulations, 2015 vide Notification No. LAD-NRO/GN/2015- 16/017

(zf) March 6, 2017 by the Securities and Exchange Board of India (Payment of Fees and Mode of Payment) (Amendment) Regulations, 2017 vide Notification No. LAD-NRO/GN/2016- 17/037 read with March 29, 2017 by the Securities and Exchange Board of India (Payment of Fees and Mode of Payment) (Amendment) Regulations, 2017 vide Notification No. LAD-NRO/GN/2016- 17/038

(zg) July 13, 2017 by the Securities and Exchange Board of India (Stock Brokers and Sub-Brokers)(Amendment) Regulations, 2017 vide Notification No. LAD-NRO/GN/2017- 18/005

(zh) March 13, 2018 by the Securities and Exchange Board of India (Stock Brokers and Sub-Brokers)(Amendment) Regulations, 2018 vide Notification No. SEBI/LAD-NRO/GN/2018/03.

(zi) July 30, 2018 by the Securities and Exchange Board of India (Stock Brokers and Sub-Brokers)(Second Amendment) Regulations, 2018 vide Notification No. SEBI/LAD-NRO/GN/2018/27

(zj) April 17, 2020 by the Securities and Exchange Board of India (Regulatory Sandbox) (Amendment) Regulations, 2020 vide Notification No. SEBI/LAD-NRO/GN/2020/10

(zk) May 08, 2020 the Securities and Exchange Board of India (Payment of Fees) (Amendment) Regulations, 2020 vide Notification No. SEBI/LAD-NRO/GN/2020/011
