

2020



HS ASSOCIATES
COMPANY SECRETARIES

Knowledge Capsule

Regulatory Updates

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SEBI's RELAXATION IN FPOS

SEBI on June 09, 2020 eased norms related to fast track further public offers. The comparison between present norms and relaxed norms are presented below:

Norms	Present	Relaxation
Average market capitalisation of public shareholding of the company	Rs. 1,000 Crore.	Rs 500 Crore.
Show cause notice issued by SEBI against the issuer or its promoters or whole time directors or group companies in an adjudication proceeding or prosecution proceedings have been initiated	No Show cause notice issued by SEBI against the issuer or its promoters or whole time directors or group companies in an adjudication proceeding or prosecution proceedings have been initiated	In cases, where show cause notice has been issued by the SEBI against the issuer or its promoters or whole time directors or group companies in an adjudication proceeding or prosecution proceedings have been initiated, necessary disclosures in respect of such action, along with its potential adverse impact on the issuer shall be made in the offer documents.
Settlement of any alleged violation of securities laws through the consent or settlement mechanism with the SEBI during the last 3 year.	The issuer or promoter or promoter group or director of the issuer should not settle any alleged violation of securities laws through the consent or settlement mechanism with the SEBI during the last 3 year.	The issuer or promoter or promoter group or director of the issuer has fulfilled the settlement terms or adhered to directions of the settlement order(s) in cases where it has settled any alleged violation of securities laws through the consent or settlement mechanism with the SEBI
Impact of audit qualifications on the audited accounts of the issuer	Impact of audit qualifications on the audited accounts of the issuer in respect of those financial years for which such accounts are disclosed does not exceed five per cent. of the net profit or loss after tax of the issuer for the respective years.	Impact of audit qualifications on the audited accounts of the issuer in respect of those financial years for which such accounts are disclosed should be appropriately disclosed and accounts accordingly restated in the offer documents.

These relaxations which come into immediate effect are applicable for FPOs that open on or before March 31, 2021.

PROMOTER'S CREEPING ACQUISITION LIMIT ENHANCED TO 10%

SEBI has permitted promoters owning 25% or more voting rights in listed companies to increase stake upto 10% through preferential issue till 31st March 2021, without triggering the open offer obligation under the takeover code.

(earlier acquisition upto 5% of the voting rights was permitted)

SCHEME FOR RELAXATION OF TIME FOR FILING FORMS RELATED TO CREATION OR MODIFICATION OF CHARGES UNDER THE COMPANIES ACT, 2013

On account of the pandemic caused by the COVID-19, the timelines related to filing of certain charge related forms are relaxed so as to provide a window of compliance for the registration of charges. Under the Companies Fresh Start Scheme, 2020 as laid out in the General Circular No. 12 / 2020, dated 30.03.2020, the benefit of waiver of additional fees was not extended to the charge related documents. Now the scope of CFSS,2020 is widened so as to include charge related forms.

Applicability

The scheme shall be applicable in respect of filing of Form No. CHG-1 and Form No. CHG-9 by a company or a charge holder, where the date of creation / modification of charge:

(a) is before 01.03.2020, but the timeline for filing such form had not expired under section 77 of the Act as on 01.03.2020, or

(b) falls on any date between 01.03.2020 to 30.09.2020 (both dates inclusive).

Relaxation Period:

(a). If the charge is created or modified before 01.03.2020 and yet to register then timeline provided under section 77 or 78 of the Act shall not include the period commencing from 30.03.2020 to 30.09.2020.

(b). If the charge is created or modified after 01.03.2020 then the same can be registered on or after 01.10.2020. The period provided under section 77 and 78 of the Act shall start from 01.10.2020.

Applicable Fees:

(a). (i) If charge is created/modified before 01.03.2020 and the form is filed on or before 30.09.2020, the fees payable as on 29.02.2020 under the Fees Rules shall be charged.

(ii) If charge is created/modified before 01.03.2020 and the form is filed after 29.09.2020 then the period shall include day commencing from 01.10.2020 till the date of filing plus the time period lapsed from the date of the creation of charge till 29.02.2020.

E.g. If charge is created/modified on 01.02.2020 and form is filed on 11.11.2020 then the period shall be counted as 29 days of February and 11 days of November. Total number of days are 50 days. Hence no additional fees shall be charged.

(b). (i) If charge is created/modified during 01.03.2020 and 29.09.2020 and form is filed before 01.10.2020 then normal filing fees shall be levied.

(ii) If charge is created/modified during 01.03.2020 and 29.09.2020 and form is filed after 29.10.2020, the first day after the date of creation/modification of charge shall be reckoned as 01.10.2020 and the number of days till the date of filing of the form shall be counted accordingly for the purposes of payment of fees under the Fees Rules.

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