

**COMPARISON OF LEGAL TEXT OF DEFINITIONS OF SEBI (SAST) REGULATIONS, 1997
AND SEBI (SAST) REGULATIONS, 2011**

SEBI (SAST) Regulations, 1997	SEBI (SAST) Regulations, 2011
Regulation 1 – Short Title and Commencement	
(1) These regulations shall be called the Securities and Exchange Board of India (Substantial Acquisition of Shares and Takeovers) Regulations, 1997.	(1) These regulations shall be called the Securities and Exchange Board of India (Substantial Acquisition of Shares and Takeovers) Regulations, 2011.
(2) These regulations shall come into force on the date of their publication in the Official Gazette.	(2) These regulations shall come into force on the thirtieth day from the date of their publication in the Official Gazette.
	(3) These regulations shall apply to direct and indirect acquisition of shares or voting rights in, or control over any target company.
Regulation 2 – Definitions	
(1) In these regulations, unless the context otherwise requires: -	(1) In these regulations, unless the context otherwise requires, the terms defined herein shall bear the meanings assigned to them below, and their cognate expressions and variations shall be construed accordingly,—
(a) “Act” means the Securities and Exchange Board of India Act, 1992 (15 of 1992);	(c) “Act” means the Securities and Exchange Board of India Act, 1992 (15 of 1992);
(b) “Acquirer” means any person who, directly or indirectly, acquires or agrees to acquire shares or voting rights in the target company, or acquires or agrees to acquire control over the target company, either by himself or with any person acting in concert with the acquirer;	(a) “Acquirer” means any person who, directly or indirectly, acquires or agrees to acquire whether by himself, or through, or with persons acting in concert with him, shares or voting rights in, or control over a target company;
(c) “Control” shall include the right to appoint majority of the directors or to control the management or policy decisions exercisable by a person or persons acting individually or in concert, directly or indirectly, including by virtue of their shareholding or management rights or shareholders agreements or voting agreements or in any other manner. Explanation: — i. Where there are two or more persons in control over the target company, the	(e) “Control” includes the right to appoint majority of the directors or to control the management or policy decisions exercisable by a person or persons acting individually or in concert, directly or indirectly, including by virtue of their shareholding or management rights or shareholders agreements or voting agreements or in any other manner: Provided that a director or officer of a target company shall not be considered to be in

<p>cesser of any one of such persons from such control shall not be deemed to be a change in control of management nor shall any change in the nature and quantum of control amongst them constitute change in control of management: Provided that the transfer from joint control to sole control is effected in accordance with clause (e) of sub-regulation (1) of regulation 3.</p> <p>ii. If consequent upon change in control of the target company in accordance with regulation 3, the control acquired is equal to or less than the control exercised by person(s) prior to such acquisition of control, such control shall not be deemed to be a change in control;</p>	<p>control over such target company, merely by virtue of holding such position;</p>
<p>cc) “Disinvestment” means the sale by the Central Government or by the State Government as the case may be of its shares or voting rights and/or control, in a listed Public Sector Undertaking;</p>	<p>(g) “Disinvestment” means the direct or indirect sale by the central government, any state government or by a government company, as the case may be, of shares or voting rights in, or control over, a target company, which is a public sector undertaking;</p>
<p>(d) “Investigating officer” means any person appointed by the Board under regulation 38;</p>	
<p>(e) “Person acting in concert” comprises,—</p> <ol style="list-style-type: none"> 1. Persons who, for a common objective or purpose of substantial acquisition of shares or voting rights or gaining control over the target company, pursuant to an agreement or understanding (formal or informal), directly or indirectly co-operate by acquiring or agreeing to acquire shares or voting rights in the target company or control over the target company, 2. Without prejudice to the generality of this definition, the following persons will be deemed to be persons acting in concert with other persons in the same category, unless the contrary is established : <ol style="list-style-type: none"> i. a company, its holding company, or subsidiary or such company or company under the same management either 	<p>(q) “Persons acting in concert” means,—</p> <ol style="list-style-type: none"> (1) persons who, with a common objective or purpose of acquisition of shares or voting rights in, or exercising control over a target company, pursuant to an agreement or understanding, formal or informal, directly or indirectly co-operate for acquisition of shares or voting rights in, or exercise of control over the target company. (2) Without prejudice to the generality of the foregoing, the persons falling within the following categories shall be deemed to be persons acting in concert with other persons within the same category, unless the contrary is established,— <ol style="list-style-type: none"> i. a company, its holding company, subsidiary company and any company under the same management or control; ii. a company, its directors, and any person entrusted with the management of the

<p>individually or together with each other;</p> <p>ii. a company with any of its directors, or any person entrusted with the management of the funds of the company;</p> <p>iii. directors of companies referred to in sub-clause (i) of clause (2) and their associates;</p> <p>iv. mutual fund with sponsor or trustee or asset management company;</p> <p>v. foreign institutional investors with sub-account(s);</p> <p>vi. merchant bankers with their client(s) as acquirer;</p> <p>vii. portfolio managers with their client(s) as acquirer;</p> <p>viii. venture capital funds with sponsors;</p> <p>ix. banks with financial advisers, stock brokers of the acquirer, or any company which is a holding company, subsidiary or relative of the acquirer : Provided that sub-clause (ix) shall not apply to a bank whose sole relationship with the acquirer or with any company, which is a holding company or a subsidiary of the acquirer or with a relative of the acquirer, is by way of providing normal commercial banking services or such activities in connection with the offer such as confirming availability of funds, handling acceptances and other registration work;</p> <p>x. any investment company with any person who has an interest as director, fund manager, trustee, or as a shareholder having not less than 2 per cent of the paid-up capital of that company or with any other investment company in which such person or his associate holds not less than 2 per cent of the paid-up capital of the latter company. Note : For the purposes of this clause "associate" means,—a) any relative of that person within the meaning of section</p>	<p>company;</p> <p>iii. directors of companies referred to in item (i) and (ii) of this sub-clause and associates of such directors;</p> <p>iv. promoters and members of the promoter group;</p> <p>v. immediate relatives;</p> <p>vi. a mutual fund, its sponsor, trustees, trustee company, and asset management company;</p> <p>vii. a collective investment scheme and its collective investment management company, trustees and trustee company;</p> <p>viii. a venture capital fund and its sponsor, trustees, trustee company and asset management company;</p> <p>ix. a foreign institutional investor and its sub-accounts;</p> <p>x. a merchant banker and its client, who is an acquirer;</p> <p>xi. a portfolio manager and its client, who is an acquirer;</p> <p>xii. banks, financial advisers and stock brokers of the acquirer, or of any company which is a holding company or subsidiary of the acquirer, and where the acquirer is an individual, of the immediate relative of such individual:</p> <p>Provided that this sub-clause shall not apply to a bank whose sole role is that of providing normal commercial banking services or activities in relation to an open offer under these regulations;</p> <p>xiii. an investment company or fund and any person who has an interest in such investment company or fund as a shareholder or unitholder having not less than 10 per cent of the paid-up capital of the investment company or unit capital of the fund, and any other investment company or fund in which such person or his associate holds not less than 10 per cent of the paid-up capital of that investment company or unit capital of that fund:</p> <p>Provided that nothing contained in this sub-clause shall apply to holding of units of</p>
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<p>6 of the Companies Act, 1956 (1 of 1956); and b) family trusts and Hindu undivided families</p>	<p>mutual funds registered with the Board;</p> <p><i>Explanation.</i>— For the purposes of this clause “associate” of a person means,—</p> <ul style="list-style-type: none"> a) any immediate relative of such person; b) trusts of which such person or his immediate relative is a trustee; c) partnership firm in which such person or his immediate relative is a partner; and d) members of Hindu undivided families of which such person is a coparcener;
<p>(f) “Offer Period” means the period between the date of entering into Memorandum of Understanding or the public announcement, as the case may be and the date of completion of offer formalities relating to the offer made under these regulations;</p>	<p>(p) “Offer Period” means the period between the date of entering into an agreement, formal or informal, to acquire shares, voting rights in, or control over a target company requiring a public announcement, or the date of the public announcement, as the case may be, and the date on which the payment of consideration to shareholders who have accepted the open offer is made, or the date on which open offer is withdrawn, as the case may be;</p>
<p>(g) “Panel” means a panel constituted by the Board for the purpose of regulation 4;</p>	
<p>(h) “Promoter” means—</p> <ul style="list-style-type: none"> a) any person who is in control of the target company; b) any person named as promoter in any offer document of the target company or any shareholding pattern filed by the target company with the stock exchanges pursuant to the Listing Agreement, whichever is later; and includes any person belonging to the promoter group as mentioned in Explanation I : <p>Provided that a director or officer of the target company or any other person shall not be a promoter, if he is acting as such merely in his professional capacity.</p> <p>Explanation I : For the purpose of this clause, ‘promoter groups’ shall include :</p> <ul style="list-style-type: none"> a. in case promoter is a body corporate— <ul style="list-style-type: none"> i. a subsidiary or holding company of 	<p>(s) “Promoter” has the same meaning as in the Securities and Exchange Board of India (Issue of Capital and Disclosure Requirements) Regulations, 2009 and includes a member of the promoter group;</p> <p>(t) “Promoter group” has the same meaning as in the Securities and Exchange Board of India (Issue of Capital and Disclosure Requirements) Regulations, 2009;</p>

<p>that body corporate;</p> <p>ii. any company in which the promoter holds 10% or more of the equity capital or which holds 10% or more of the equity capital of the promoter;</p> <p>iii. any company in which a group of individuals or companies or combinations thereof who holds 20% or more of the equity capital in that company also holds 20% or more of the equity capital of the target company; and</p> <p>b. in case the promoter is an individual—</p> <p>i. the spouse of that person, or any parent, brother, sister or child of that person or his spouse;</p> <p>ii. any company in which 10% or more of the share capital is held by the promoter or an immediate relative of the promoter or a firm or HUF in which the promoter or any one or more of his immediate relative is a member;</p> <p>iii. any company in which a company specified in (i) above, holds 10% or more, of the share capital; and</p> <p>iv. any HUF or firm in which the aggregate share of the promoter and his immediate relatives is equal to or more than 10 per cent of the total.</p> <p>Explanation II: Financial Institutions, Scheduled Banks, Foreign Institutional Investors (FIIs) and Mutual Funds shall not be deemed to be a promoter or promoter group merely by virtue of their shareholding. Provided that the Financial Institutions, Scheduled Banks and Foreign Institutional Investors (FIIs) shall be treated as promoters or promoter group for the subsidiaries or companies promoted by them or mutual funds sponsored by them.</p>	
<p>(i) “Public financial institution” means a public financial institution as defined in</p>	

section 4A of the Companies Act, 1956;	
(ii) “Public Sector Undertaking” means a company in which the Central Government or a State Government holds 50% or more of its equity capital or is in control of the company;	u) “Public sector undertaking” means a target company in which, directly or indirectly, majority of shares or voting rights or control is held by the central government or any state government or governments, or partly by the central government and partly by one or more state governments;
(j) “Public shareholding” means shareholding held by persons other than promoters as defined under clause (h);	
(k) “Shares” means shares in the share capital of a company carrying voting rights and includes any security which would entitle the holder to receive shares with voting rights but shall not include preference shares;	(v) “Shares” means shares in the equity share capital of a target company carrying voting rights, and includes any security which entitles the holder thereof to exercise voting rights; <i>Explanation.</i> — For the purpose of this clause shares will include all depository receipts carrying an entitlement to exercise voting rights in the target company;
(l) “Sick Industrial Company” shall have the same meaning assigned to it in clause (o) of sub-section (1) of section 3 of the Sick Industrial Companies (Special Provisions) Act, 1985 (1 of 1986), or any statutory re-enactment thereof;	
(m) “State level financial institution” means a State Financial Corporation established under section 3 of the State Financial Institutions Act, 1951, and includes a development corporation established as a company by a State Government with the object of development of industries or agricultural activities in the State;	(x) “State-level financial institution” means a Financial Corporation established under section 3 or section 3A and institutions notified under section 46 of the State Financial Corporations Act, 1951 (63 of 1951), and includes a development corporation established as a company by a state government with the object of development of industries or agricultural activities in the state;
(n) “Stock Exchange” means a stock exchange which has been granted recognition under section 4 of the Securities Contracts (Regulation) Act, 1956 (42 of 1956);	(y) “Stock Exchange” means a stock exchange which has been granted recognition under section 4 of the Securities Contracts (Regulation) Act, 1956 (42 of 1956);
(o) “Target Company” means a listed company whose shares or voting rights or control is directly or indirectly acquired or is being acquired;	(z) “Target Company” means a company and includes a body corporate or corporation established under a Central legislation, State legislation or Provincial legislation for the time

	being in force, whose shares are listed on a stock exchange;
(p) “Working days” shall mean the working days of the Board.	(ze) “Working day” means any working day of the Board.
	(b) “Acquisition” means, directly or indirectly, acquiring or agreeing to acquire shares or voting rights in, or control over, a target company;
	(d) “Board” means the Securities and Exchange Board of India established under section 3 of the Act;
	(f) “Convertible Security” means a security which is convertible into or exchangeable with equity shares of the issuer at a later date, with or without the option of the holder of the security, and includes convertible debt instruments and convertible preference shares;
	(h) “Enterprise Value” means the value calculated as market capitalization of a company plus debt, minority interest and preferred shares, minus total cash and cash equivalents;
	(i) “Financial Year” means the period of twelve months commencing on the first day of April;
	(j) “Frequently traded shares” means 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 made, is at least ten per cent of the total number of shares of such class of such target company: Provided that where the total share capital of the target company is not identical throughout such period, the weighted average number of total shares of the target company shall represent the total number of shares.
	(k) “Identified date” means the date falling on the tenth working day prior to the commencement of the tendering period, for the purposes of determining the shareholders to whom the letter of offer shall be sent;

	(l) “Immediate relative” means any spouse of a person, and includes parent, brother, sister or child of such person or of the spouse;
	(m) “Listing agreement” means the agreement with the stock exchange governing the conditions of listing of shares of the target company;
	(o) “Maximum permissible non-public shareholding” means such percentage shareholding in the target company excluding the minimum public shareholding required under the Securities Contracts (Regulation) Rules, 1957;
	(n) “Manager to the open offer” means the merchant banker referred to in regulation 12;
	(r) “Postal ballot” means a postal ballot as provided for under the Companies (Passing of the Resolution by Postal Ballot) Rules, 2001 made under the Companies Act, 1956 (1 of 1956);
	(w) “Specified” means as specified by the Board;
	(za) “Tendering period” means the period within which shareholders may tender their shares in acceptance of an open offer to acquire shares made under these regulations;
	(zb) “volume weighted average market price” means the product of the number of equity shares traded on a stock exchange and the price of each equity share divided by the total number of equity shares traded on the stock exchange;
	(zc) “volume weighted average price” means the product of the number of equity shares bought and price of each such equity share divided by the total number of equity shares bought;
	(zd) “weighted average number of total shares” means the number of shares at the beginning of a period, adjusted for shares cancelled, bought back or issued during the aforesaid period, multiplied by a time-weighting factor;

(2) All other expressions unless defined herein shall have the same meaning as have been assigned to them under the Act or the Securities Contracts (Regulation) Act, 1956, or the Companies Act, 1956, or any statutory modification or re-enactment thereto, as the case may be.

(2) All other expressions unless defined herein shall have the same meaning as have been assigned to them under the Act or the Securities Contracts (Regulation) Act, 1956, (42 of 1956) or the Companies Act, 1956 (1 of 1956), or any statutory modification or re-enactment thereto, as the case may be.