

## COMPARISON OF LEGAL TEXT OF EXEMPTIONS UNDER SEBI (SAST) REGULATIONS, 1997 AND SEBI (SAST) REGULATIONS, 1997

SEBI (SAST) Regulations, 1997	SEBI (SAST) Regulations, 2011
<b>Regulation 3 – Applicability of Regulations</b>	<b>Regulation 10 – General exemptions</b>
(1) Nothing contained in regulations 10, 11 and 12 of these regulations shall apply to :	(1) The following acquisitions shall be exempt from the obligation to make an open offer under regulation 3 and regulation 4 subject to fulfillment of the conditions stipulated therefore,—
(a) allotment in pursuance of an application made to a public issue : Provided that if such an allotment is made pursuant to a firm allotment in the public issues, such allotment shall be exempt only if full disclosures are made in the prospectus about the identity of the acquirer who has agreed to acquire the shares, the purpose of acquisition, consequential changes in voting rights, shareholding pattern of the company and in the board of directors of the company, if any, and whether such allotment would result in change in control over the company.	
(b) allotment pursuant to an application made by the shareholder for rights issue,  i. to the extent of his entitlement; and ii. up to the percentage specified in regulation 11:  Provided that the limit mentioned in sub-clause (ii) will not apply to the acquisition by any person, presently in control of the company and who has in the rights letter of offer made disclosures that they intend to acquire additional shares beyond their entitlement, if the issue is undersubscribed: Provided further that this exemption shall not be available in case the acquisition of securities results in the change of control of management;	10(4) The following acquisitions shall be exempt from the obligation to make an open offer under sub-regulation (2) of regulation 3,— a. acquisition of shares by any shareholder of a target company, upto his entitlement, pursuant to a rights issue; b. acquisition of shares by any shareholder of a target company, beyond his entitlement, pursuant to a rights issue, subject to fulfillment of the following conditions,— i. the acquirer has not renounced any of his entitlements in such rights issue; and ii. the price at which the rights issue is made is not higher than the ex-rights price of the shares of the target company, being the sum of,— A. the volume weighted average market price of the shares of the target company during

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	<p>a period of sixty trading days ending on the day prior to the date of determination of the rights issue price, multiplied by the number of shares outstanding prior to the rights issue, divided by the total number of shares outstanding after allotment under the rights issue:</p> <p><b>Provided</b> that such volume weighted average market price shall be determined on the basis of trading on the stock exchange where the maximum volume of trading in the shares of such target company is recorded during such period; and</p> <p>B. the price at which the shares are offered in the rights issue, multiplied by the number of shares so offered in the rights issue divided by the total number of shares outstanding after allotment under the rights issue:</p>
(c) Deleted	
(d) allotment to the underwriters pursuant to any underwriting agreement;	<p>10(1) The following acquisitions shall be exempt from the obligation to make an open offer under regulation 3 and regulation 4 subject to fulfillment of the conditions stipulated therefore,—</p> <p>(b) (i) An underwriter registered with the Board by way of allotment pursuant to an underwriting arrangement in terms of the Securities and Exchange Board of India (Issue of Capital and Disclosure Requirements) Regulations, 2009;</p>
<p>(e) inter se transfer of shares amongst—</p> <p>i. group coming within the definition of group as defined in the Monopolies and Restrictive Trade Practices Act, 1969 (54 of 1969) where persons constituting such group have been shown as group in the last published Annual Report of the</p>	<p>10. (1) The following acquisitions shall be exempt from the obligation to make an open offer under regulation 3 and regulation 4 subject to fulfillment of the conditions stipulated therefor,—</p> <p>a) acquisition pursuant to inter se transfer of shares amongst qualifying persons, being,—</p> <p>i. immediate relatives;</p> <p>ii. persons named as promoters in the</p>

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<p>target company;]</p> <p>ii. relatives within the meaning of section 6 of the Companies Act, 1956 (1 of 1956);</p> <p>iii. (a) Qualifying Indian promoters and foreign collaborators who are shareholders;(b)Qualifying promoters</p> <p>Provided that the transferor(s) as well as the transferee(s) have been holding shares in the target company for a period of at least three years prior to the proposed acquisition.</p> <p>Explanation : For the purpose of the exemption under sub-clause (iii) the term qualifying promoter” means—</p> <p>i. any person who is directly or indirectly in control of the company; or</p> <p>ii. any person named as promoter in any document for offer of securities to the public or existing shareholders or in the shareholding pattern disclosed by the company under the provisions of the Listing Agreement, whichever is later; and includes,</p> <p>(a) where the qualifying promoter is an individual,—</p> <p>1. a relative of the qualifying promoter within the meaning of section 6 of the Companies Act, 1956 (1 of 1956);</p> <p>2. any firm or company, directly or indirectly, controlled by the qualifying promoter or a relative of the qualifying promoter or a firm or Hindu undivided family in which the qualifying promoter or his relative is a partner or a coparcener or a combination thereof:</p> <p>Provided that, in case of a partnership firm, the share of the qualifying promoter or his relative, as the case may be, in such firm</p>	<p>shareholding pattern filed by the target company in terms of the listing agreement or these regulations for not less than three years prior to the proposed acquisition;</p> <p>iii. a company, its subsidiaries, its holding company, other subsidiaries of such holding company, persons holding not less than fifty per cent of the equity shares of such company, other companies in which such persons hold not less than fifty per cent of the equity shares, and their subsidiaries subject to control over such qualifying persons being exclusively held by the same persons;</p> <p>iv. persons acting in concert for not less than three years prior to the proposed acquisition, and disclosed as such pursuant to filings under the listing agreement;</p> <p>v. shareholders of a target company who have been persons acting in concert for a period of not less than three years prior to the proposed acquisition and are disclosed as such pursuant to filings under the listing agreement, and any company in which the entire equity share capital is owned by such shareholders in the same proportion as their holdings in the target company without any differential entitlement to exercise voting rights in such company:</p> <p><b>Provided</b> that for purposes of availing of the exemption under this clause,—</p> <p>i. If the shares of the target company are frequently traded, the acquisition price per share shall not be higher by more than twenty-five per cent of the volume-weighted average market price for a period of sixty trading days preceding the date of issuance of notice for the proposed <i>inter se</i> transfer under sub-regulation (5), as traded on the stock exchange where the maximum volume of trading in the shares of the target company are recorded during such period, and if the</p>

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<p>should not be less than fifty per cent (50%);</p> <p>(b) where the qualifying promoter is a body corporate,—</p> <ol style="list-style-type: none"> <li>1. a subsidiary or holding company of that body; or</li> <li>2. any firm or company, directly or indirectly, controlled by the qualifying promoter of that body corporate or by his relative or a firm or Hindu undivided family in which the qualifying promoter or his relative is a partner or coparcener or a combination thereof:</li> </ol> <p>Provided that, in case of a partnership firm, the share of such qualifying promoter or his relative, as the case may be, in such firm should not be less than fifty per cent (50%),</p> <p>iv. the acquirer and persons acting in concert with him, where such transfer of shares takes place three years after the date of closure of the public offer made by them under these regulations.</p> <p>Explanation.—(1) The exemption under sub-clauses (iii) and (iv) shall not be available if inter se transfer of shares is at a price exceeding 25% of the price as determined in terms of sub-regulations (4) and (5) of regulation 20.</p> <p>(2) The benefit of availing exemption under this clause, from applicability of the regulations for increasing shareholding or inter se transfer of shareholding shall be subject to such transferor(s) and transferee(s) having complied with regulation 6, regulation 7 and regulation 8;</p>	<p>shares of the target company are infrequently traded, the acquisition price shall not be higher by more than twenty-five percent of the price determined in terms of clause (e) of sub-regulation (2) of regulation 8; and</p> <p>ii. the transferor and the transferee shall have complied with applicable disclosure requirements set out in Chapter V.</p>
<p>(f) acquisition of shares in the ordinary course of business by,—</p> <ol style="list-style-type: none"> <li>i. a registered stock-broker of a stock</li> </ol>	<p>10. (1) The following acquisitions shall be exempt from the obligation to make an open offer under regulation 3 and regulation 4 subject to fulfillment of the conditions stipulated therefor,— <b>(b)</b></p>

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<p>exchange on behalf of clients;</p> <p>ii. a registered market maker of a stock exchange in respect of shares for which he is the market maker, during the course of market making;</p> <p>iii. by Public Financial Institutions on their own account;</p> <p>iv. by banks and public financial institutions as pledgees;</p> <p>v. the International Finance Corporation, Asian Development Bank, International Bank for Reconstruction and Development, Commonwealth Development Corporation and such other international financial institutions;</p> <p>vi. a merchant banker or a promoter of the target company pursuant to a scheme of safety net under the provisions of the Securities and Exchange Board of India (Disclosure and Investor Protection) Guidelines, 2000 in excess of limit specified in sub-regulation (1) of regulation 11;</p> <p>vii. a merchant banker or nominated investor in the process of market making and subscription by the nominated investor to the unsubscribed portion of issue, in terms of Chapter XA of the Securities and Exchange Board of India (Issue of Capital and Disclosure Requirements) Regulations, 2009: Provided that benefit of exception provided in sub-clause (vii) shall not be available if the acquisition of securities in the process of market making or subscription to the unsubscribed portion of issue results in change in control over the target company, directly or indirectly.</p>	<p><b>acquisition in the ordinary course of business by,—</b></p> <p>ii. a stock broker registered with the Board on behalf of his client in exercise of lien over the shares purchased on behalf of the client under the bye-laws of the stock exchange where such stock broker is a member;</p> <p>iii. a merchant banker registered with the Board or a nominated investor in the process of market making or subscription to the unsubscribed portion of issue in terms of Chapter XB of the Securities and Exchange Board of India (Issue of Capital and Disclosure Requirements) Regulations, 2009;</p> <p>iv. any person acquiring shares pursuant to a scheme of safety net in terms of regulation 44 of the Securities and Exchange Board of India (Issue of Capital and Disclosure Requirements) Regulations, 2009;</p> <p>v. a merchant banker registered with the Board acting as a stabilizing agent or by the promoter or pre-issue shareholder in terms of regulation 45 of the Securities and Exchange Board of India (Issue of Capital and Disclosure Requirements) Regulations, 2009;</p> <p>vi. by a registered market-maker of a stock exchange in respect of shares for which he is the market maker during the course of market making;</p> <p>vii. a Scheduled Commercial Bank, acting as an escrow agent; and</p> <p>viii. invocation of pledge by Scheduled Commercial Banks or Public Financial Institutions as a pledgee.</p>
<p><b>ff)</b> acquisition of shares by a person in exchange of shares received under a public offer made under these regulations;</p>	<p>10(4) The following acquisitions shall be exempt from the obligation to make an open offer under sub-regulation (2) of regulation 3 subject to fulfillment of the conditions stipulated therefor,—</p>

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	(d) Acquisition of shares in a target company by any person in exchange for shares of another target company tendered pursuant to an open offer for acquiring shares under these regulations;
(g) acquisition of shares by way of transmission on succession or inheritance;	10. (1) The following acquisitions shall be exempt from the obligation to make an open offer under regulation 3 and regulation 4 subject to fulfillment of the conditions stipulated therefor,— (g) acquisition by way of transmission, succession or inheritance;
(h) acquisition of shares by Government companies within the meaning of section 617 of the Companies Act, 1956 (1 of 1956), and statutory corporations : Provided that this exemption shall not be applicable if a Government company acquires shares or voting rights or control of a listed Public Sector Undertaking through the competitive bidding process of the Central Government or the State Government as the case may be, for the purpose of disinvestment:	
(i) transfer of shares from State level financial institutions, including their subsidiaries, to co-promoter(s) of the company or their successors or assignee(s) or an acquirer who has substituted an erstwhile promoter pursuant to an agreement between such financial institution and such co-promoter(s);	10 (4) The following acquisitions shall be exempt from the obligation to make an open offer under sub-regulation (2) of regulation 3 subject to fulfillment of the conditions stipulated therefor,— (e) acquisition of shares in a target company from state-level financial institutions or their subsidiaries or companies promoted by them, by promoters of the target company pursuant to an agreement between such transferors and such promoter;
(ia) transfer of shares from venture capital funds or foreign venture capital investors registered with the Board to promoters of a venture capital undertaking or venture capital undertaking pursuant to an agreement between such venture capital fund or foreign venture capital investors with such promoters or venture capital undertaking.	10(4) The following acquisitions shall be exempt from the obligation to make an open offer under sub-regulation (2) of regulation 3 subject to fulfillment of the conditions stipulated therefor,— (f) acquisition of shares in a target company from a venture capital fund or a foreign venture capital investor registered with the Board, by promoters of the target company pursuant to an agreement

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	<p>between such venture capital fund or foreign venture capital investor and such promoters.</p>
<p>(j) <b>pursuant to a scheme :</b></p> <ul style="list-style-type: none"> <li>i. framed under section 18 of the Sick Industrial Companies (Special Provisions) Act, 1985 (1 of 1986);</li> <li>ii. of arrangement or reconstruction including amalgamation or merger or demerger under any law or regulation, Indian or foreign;</li> </ul>	<p>10. (1) The following acquisitions shall be exempt from the obligation to make an open offer under regulation 3 and regulation 4 subject to fulfillment of the conditions stipulated therefor,—</p> <p><b>(d)</b> acquisition pursuant to a scheme,—</p> <p><b>(i)</b> made under section 18 of the Sick Industrial Companies (Special Provisions) Act, 1985 (1 of 1986) or any statutory modification or re-enactment thereto;</p> <p><b>(ii)</b> of arrangement involving the target company as a transferor company or as a transferee company, or reconstruction of the target company, including amalgamation, merger or demerger, pursuant to an order of a court or a competent authority under any law or regulation, Indian or foreign; or</p> <p><b>(iii)</b> of arrangement not directly involving the target company as a transferor company or as a transferee company, or reconstruction not involving the target company's undertaking, including amalgamation, merger or demerger, pursuant to an order of a court or a competent authority under any law or regulation, Indian or foreign, subject to,—</p> <p>A. the component of cash and cash equivalents in the consideration paid being less than twenty-five per cent of the consideration paid under the scheme; and</p> <p>B. where after implementation of the scheme of arrangement, persons directly or indirectly holding at least thirty-three per cent of the voting rights in the combined entity are the same as the persons who held the entire voting rights before the implementation of the scheme.</p>



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(ja) change in control by takeover of management of the borrower target company by the secured creditor or by restoration of management to the said target company by the said secured creditor in terms of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (54 of 2002);	10. (1) The following acquisitions shall be exempt from the obligation to make an open offer under regulation 3 and regulation 4 subject to fulfillment of the conditions stipulated therefor,— (e) Acquisition pursuant to the provisions of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (54 of 2002);
(k) acquisition of shares in companies whose shares are not listed on any stock exchange. Explanation.—The exemption under clause (k) above shall not be applicable if by virtue of acquisition or change of control of any unlisted company, whether in India or abroad, the acquirer acquires shares or voting rights or control over a listed company;	
(ka) acquisition of shares in terms of guidelines or regulations regarding delisting of securities specified or framed by the Board;	10. (1) The following acquisitions shall be exempt from the obligation to make an open offer under regulation 3 and regulation 4 subject to fulfillment of the conditions stipulated therefor,— (f) acquisition pursuant to the provisions of the Securities and Exchange Board of India (Delisting of Equity Shares) Regulations, 2009;
(l) [***] other cases as may be exempted from the applicability of Chapter III by the Board under regulation 4.	
	10. (1) The following acquisitions shall be exempt from the obligation to make an open offer under regulation 3 and regulation 4 subject to fulfillment of the conditions stipulated therefor,— (h) acquisition of voting rights or preference shares carrying voting rights arising out of the operation of sub-section (2) of section 87 of the Companies Act, 1956 (1 of 1956).



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	<p>10(2) The acquisition of shares of a target company, not involving a change of control over such target company, pursuant to a scheme of corporate debt restructuring in terms of the Corporate Debt Restructuring Scheme notified by the Reserve Bank of India vide circular no. B.P.BC 15/21.04, 114/2001 dated August 23, 2001, or any modification or re-notification thereto provided such scheme has been authorised by shareholders by way of a special resolution passed by postal ballot, shall be exempted from the obligation to make an open offer under regulation 3.</p>
	<p>10(3) An increase in voting rights in a target company of any shareholder beyond the limit attracting an obligation to make an open offer under sub-regulation (1) of regulation 3, pursuant to buy-back of shares shall be exempt from the obligation to make an open offer provided such shareholder reduces his shareholding such that his voting rights fall to below the threshold referred to in sub-regulation (1) of regulation 3 within ninety days from the date on which the voting rights so increase.</p>
	<p>10(4) The following acquisitions shall be exempt from the obligation to make an open offer under sub-regulation (2) of regulation 3 subject to fulfillment of the conditions stipulated therefor,—</p> <p>c. increase in voting rights in a target company of any shareholder pursuant to buy-back of shares:</p> <p><b>Provided that,—</b></p> <ol style="list-style-type: none"> <li>such shareholder has not voted in favour of the resolution authorising the buy-back of securities under section 77A of the Companies Act, 1956 (1 of 1956);</li> <li>in the case of a shareholder resolution, voting is by way of postal ballot;</li> <li>where a resolution of shareholders is not</li> </ol>

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	<p>required for the buyback, such shareholder, in his capacity as a director, or any other interested director has not voted in favour of the resolution of the board of directors of the target company authorising the buy-back of securities under section 77A of the Companies Act, 1956 (1 of 1956); and</p> <p>iv. the increase in voting rights does not result in an acquisition of control by such shareholder over the target company:</p> <p><b>Provided further</b> that where the aforesaid conditions are not met, in the event such shareholder reduces his shareholding such that his voting rights fall below the level at which the obligation to make an open offer would be attracted under sub-regulation (2) of regulation 3, within ninety days from the date on which the voting rights so increase, the shareholder shall be exempt from the obligation to make an open offer;</p>
<p><b>1(A).</b> For the removal of doubt, it is clarified that nothing contained in sub-regulation (1) shall affect the applicability of the listing requirements.</p>	
<p>2 . Nothing contained in regulation 10, regulation 11 and regulation 12 of these regulations shall apply to the acquisition of Global Depository Receipts or American Depository Receipts unless the holders thereof, -</p> <p>(a) become entitled to exercise voting rights, in any manner whatsoever, on the underlying shares; or</p> <p>(b) exchange such Depository Receipts with the underlying shares carrying voting rights</p>	<p>—</p>
<p>3. In respect of acquisitions under clauses [***] (e), (h) and (i) of sub-regulation (1), the stock exchanges where the shares of the company are listed shall, for information of the public, be</p>	<p><b>(5)</b> In respect of acquisitions under clause (a) of sub-regulation (1), and clauses (e) and (f) of sub-regulation (4), the acquirer shall intimate the stock exchanges where the shares of the target</p>

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<p>notified of the details of the proposed transactions at least 4 working days in advance of the date of the proposed acquisition, in case of acquisition exceeding 5 per cent of the voting share capital of the company.</p>	<p>company are listed, the details of the proposed acquisition in such form as may be specified, at least four working days prior to the proposed acquisition, and the stock exchange shall forthwith disseminate such information to the public.</p>
	<p><b>(6)</b> In respect of any acquisition made pursuant to exemption provided for in this regulation, the acquirer shall file a report with the stock exchanges where the shares of the target company are listed, in such form as may be specified not later than four working days from the acquisition, and the stock exchange shall forthwith disseminate such information to the public.</p>
<p>4. In respect of acquisitions under clauses (a), (b), [***] (e) and (i) of sub-regulation (1), the acquirer shall, within 21 days of the date of acquisition, submit a report along with supporting documents to the Board giving all details in respect of acquisitions which (taken together with shares or voting rights, if any, held by him or by persons acting in concert with him) would entitle such person to exercise 15 per cent or more of the voting rights in a company. Explanation.—For the purposes of sub-regulations (3) and (4), the relevant date in case of securities which are convertible into shares shall be the date of conversion of such securities.</p>	<p><b>(7)</b> In respect of any acquisition of or increase in voting rights pursuant to exemption provided for in clause (a) of sub-regulation (1), sub-clause (iii) of clause (d) of subregulation (1), clause (h) of sub-regulation (1), sub-regulation (2), sub-regulation (3) and clause (c) of sub-regulation (4), clauses (a), (b) and (f) of sub-regulation (4), the acquirer shall, within twenty-one working days of the date of acquisition, submit a report in such form as may be specified along with supporting documents to the Board giving all details in respect of acquisitions, along with a non-refundable fee of rupees twenty five thousand by way of a banker's cheque or demand draft payable in Mumbai in favour of the Board.</p>
<p>5. The acquirer shall, along with the report referred to under sub-regulation (4), pay a fee of Rs twenty five thousand rupees to the Board, either by a banker's cheque or demand draft in favour of the Securities and Exchange Board of India, payable at Mumbai.</p>	<p><i>Explanation.</i>— For the purposes of sub-regulation (5), sub-regulation (6) and subregulation (7) in the case of convertible securities, the date of the acquisition shall be the date of conversion of such securities.</p>
<p><b>Regulation 4 – Takeover Panel</b></p>	<p><b>Regulation 11 – Exemptions by the Board</b></p>

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(1) The Board shall for the purposes of this regulation constitute a panel of majority of independent persons from within the categories mentioned in sub-section (5) of section 4 of the Act.	
(2) For seeking exemption under clause (1) of sub-regulation (1) of regulation 3, the acquirer shall file an application supported by a duly sworn affidavit with the Board, giving details of the proposed acquisition and the grounds on which the exemption has been sought.	<b>(3)</b> For seeking exemption under sub-regulation (1), the acquirer shall, and for seeking relaxation under sub-regulation (2) the target company shall file an application with the Board, supported by a duly sworn affidavit, giving details of the proposed acquisition and the grounds on which the exemption has been sought.
(3) The acquirer shall, along with the application referred to under sub-regulation (2), pay a fee of fifty thousands rupees to the Board, either by a banker's cheque or demand draft in favour of the Securities and Exchange Board of India, payable at Mumbai.	<b>(4)</b> The acquirer or the target company, as the case may be, shall along with the application referred to under sub-regulation (3) pay a non-refundable fee of rupees fifty thousand, by way of a banker's cheque or demand draft payable in Mumbai in favour of the Board.
(4) The Board shall within 5 days of the receipt of an application under sub-regulation (2) forward the application to the panel.	<b>(5)</b> Provided that the Board may constitute a panel of experts to which an application for an exemption under sub-regulation (1) may, if considered necessary, be referred to make recommendations on the application to the Board.
(5) The panel shall within 15 days from the date of receipt of application make a recommendation on the application to the Board.	
(6) The Board shall after affording reasonable opportunity to the concerned parties and after considering all the relevant facts including the recommendations, if any, pass a reasoned order on the application under sub-regulation (2) within 30 days thereof.	(5)The Board may after affording reasonable opportunity of being heard to the applicant and after considering all the relevant facts and circumstances, pass a reasoned order either granting or rejecting the exemption or relaxation sought as expeditiously as possible: (1) The Board may for reasons recorded in writing, grant exemption from the obligation to make an open offer for acquiring shares under these regulations subject to such conditions as

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	the Board deems fit to impose in the interests of investors in securities and the securities market.
(7) The order of the Board under sub-regulation (6) shall be published by the Board.	(6) The order passed by the Board under sub-regulation (5) shall be hosted by the Board on its official website.