

FREQUENTLY ASKED QUESTIONS**ON****SEBI (SHARE BASED EMPLOYEE BENEFITS AND SWEAT EQUITY)
REGULATIONS, 2021 {SBEB Regulations}*****(For Pre-IPO Employee Benefits schemes)***

These FAQs are only in the nature of guidance to explain certain terms / concepts. However, for full particulars of law governing Employee Benefits Schemes please refer to Acts/Regulations/Guidelines/Circulars as applicable under the Legal Framework

Q1.) Which types of schemes does the provisions of new SBEB regulations 2021 govern?

A.) The provisions of this new regulations shall apply to the following schemes-

- Employee Stock Option Schemes;
- Employee Stock Purchase Schemes;
- Stock Appreciation Rights Schemes;
- General Employee Benefits Schemes;
- Retirement Benefit Schemes; and
- Sweat Equity Shares.

Q2.) What does the phrase “*exclusively working in India or outside India*” mean with respect to the definition of “employee” under Regulation 2(1)(i) of SBEB, 2021?

A.) The phrase “*exclusively working in India or outside India*” means any employee who is exclusively working with such company, irrespective of whether such person is employed either in India or outside India.

Q3.) Are shareholders required to approve the grant of option, SAR, shares or other benefits, as the case may be, to employees of group company including subsidiary or its associate companies, joint ventures or holding company?

A.) Yes, as per Regulation 6(3)(c) of these regulations, separate shareholders resolution is required to approve the grant of option, SAR, shares or other benefits, as the case may be, to employees of group company including subsidiary or its associate companies, joint ventures or holding company.

Q4.) When is the Company required to obtain in-principle approval from the Stock Exchange (SE) for ESOP Scheme/s launched by the Company and grants made prior to IPO?

A.) Post listing, the Company needs to obtain in-principle approval of the Exchange for all ESOP Scheme/s launched by the Company prior to IPO if any equity shares are to be listed post IPO. For options which are granted prior to IPO, such approval shall be obtained **prior to the allotment** of shares.

Q5.) Can the company make any fresh grants post IPO under any such scheme?

A.) Post IPO, no new grants to be made pursuant to ESOS, ESPS or SAR, unless:

- Such pre-IPO scheme is in conformity with these regulations.
- The said scheme has been ratified by the shareholders subsequent to the IPO and
- In-principle approval has been granted by the recognized stock exchanges where the shares are listed

Q6.) Can Company seek in-principle approval from the Stock Exchange for Pre-IPO scheme without ratification from shareholders?

A.) The Company can apply for in-principle approval from the Stock Exchange for Pre-IPO scheme without ratification from shareholders, only for grants made prior to IPO.

Q7.) For grants made prior to IPO and which have lapsed post listing, can the grants be reissued/regranted without in-principle approval from the Stock Exchange or ratification by the shareholders?

A.) In such cases, the same may be reissued/regranted if allowed as per the ESOP scheme, subject to ratification of the scheme by the shareholders and receipt of in-principle approval of the Stock Exchange.

Q8.) Is the Company required to be MPS compliant for filing in-principle application with the Stock Exchange?

A.) The Company needs to be MPS compliant before filing in-principle application with the Stock Exchange. The same shall be applicable even for a Company wherein the time period to increase its public shareholding prescribed under Securities Contracts (Regulation) Rules, 1957 is not exhausted.

Q9.) Where should the Company file the in-principle application with the Stock Exchange?

A.) The Company is required to file for in-principle application on NEAPS Portal. The link for the same is <https://neaps.nseindia.com/NEWLISTINGCORP/>

Q10.) Where can Company find list of documents to be submitted for filing application to Stock Exchange?

A.) The Company may please refer the respective checklist available on the NSE Website at the below link:

<https://www.nseindia.com/companies-listing/raising-capital-further-issues-main-sme-checklist>

Q11.) Which major documents are Companies required to submit to the Stock Exchange for ESOP/ESPS/SAR while filing in-principle application?

A.) The Companies are required to submit the following major documents to the Stock Exchange:

- *Certified copy of statement as required in Part D of Schedule I*- Kindly ensure specific reference to the respective clause of the ESOP scheme for each point is given in the 10 (b) statement
- *Certification by Registered Merchant Banker* – Kindly ensure the merchant banker certificate conforms the scheme to the SEBI (Share Based Employee Benefits and Sweat Equity) Regulations, 2021
- *Certificate of Secretarial Auditor* – Kindly ensure that the certificate of Secretarial Auditor certifies the issue is being made in strict compliance with the SEBI (Share Based Employee Benefits and Sweat Equity) Regulations, 2021
- *Confirmation from the Company as per Annexure II* – Kindly ensure that the Company provides the undertaking as per the prescribed format given in the Exchange checklist.

Q12.) Where and how is the payment towards processing fees required to be paid to the Exchange?

A.) The Company is required to pay the requisite fees in the same virtual account where the Company had paid the annual listing fees earlier to the Exchange at the time of IPO. The UTR details with respect to the said payment is required to be updated in the NEAPS application

Q13.) Where are the contact details of the Exchange officers available on the NEAPS in case of any queries with respect to the application?

A.) The contact details of the Exchange Officers are available on the NEAPS portal on the following path:

NEAPS>HELP>CONTACT US