

Ref No: NSE/CML/2014/11

September 30, 2014

The Company Secretary
All Listed Companies

Dear Sir / Madam,

Subject: - **GUIDANCE NOTE ON CLAUSE 36 OF THE LISTING AGREEMENT**

Clause 36 of the Listing Agreement requires listed entities to immediately inform the Exchange of all the events which will have bearing on the performance / operations of the Company as well as any price sensitive information. The Current Clause 36 of the Listing Agreement provides an indicative list of the material events on which listed entities are required to make disclosures to the Exchange.

The guidance note enclosed helps Listed entities to make more comprehensive disclosures relating to indicative list of such material events laid down under Clause 36 of the Listing Agreement.

The Listed entities are requested to submit the disclosures in conformity of guidance note for such material events. However, it may be noted that guidance note contains illustrative list of information to be disclosed and listed entities may choose to disclose any other material event or any more information in the interest of investors.

In case of any further query, the companies may contact on 022-26598235 / 36.

Yours faithfully,
For **National Stock Exchange of India Limited**

Avinash Kharkar
Asst. Vice President

GUIDANCE NOTE ON CLAUSE 36 OF THE LISTING AGREEMENT

BACKGROUND:-

Clause 36 of the Listing Agreement mandates that listed entities should immediately inform the Exchange of all the events which will have bearing on the performance / operations of the Company as well as any price sensitive information. As per the current Clause 36, the following is the indicative list of 'material' events on which listed entities are required to make disclosures to the Exchange:

- Events such as strikes, lock-outs, closure on account of power cuts etc.
- Change in the general character or nature of business
- Disruption of operations due to natural calamity
- Commencement of Commercial Production / Commercial Operations
- Developments with respect to pricing/realization arising out of change in the regulatory framework
- Litigation / dispute with a material impact
- Revision in Ratings
- Any other information having bearing on the operation/performance of the listed entity as well as price sensitive information.

It is observed that, in the absence of any standard or guidance on fair disclosures for the appreciation/assessment of the event by investors/shareholders, companies are furnishing varying details in their disclosures for similar events. Such variations are not helpful to investors to set their expectations on the information content in the disclosures under Clause 36 and therefore it is felt necessary to issue this guidance note to help companies to make comprehensive disclosures relating to indicative list of material events given in the current Clause 36.

GUIDANCE:-

- A. Authority for making disclosures:** Every Listed Entity shall have a policy determining the authority within the entity that is entitled to take a view on the materiality of an event that qualifies for disclosure under Clause 36 to decide the appropriate time at which such disclosure is to be filed with Exchange and details that may be filed in the best interest of present and potential investors. The authority could be Board of Directors or CEO or an operating committee of Senior Level Executives or Key Managerial Personnel (as defined under Companies Act, 2013) etc., as decided by the management of the Listed Entity. It may be noted that the onus of ensuring that the information disclosed to the Exchange is duly authorized to be disclosed as such, lies with the listed entity only and the Exchange shall assume that any disclosure received has been duly authorized.

B. Within the overall framework of the above authority, all disclosures made under clause 36 shall contain some minimum information as stated hereunder:

1. Disclosure content to report Change in General Character of Business:

- Nature of Arrangements that lead to change in general character of business – whether it is technical, manufacturing, marketing or financial tie-up or by reason of the Listed Entity (and/or its units/divisions/subsidiaries), selling or disposing of or agreeing to sell or dispose of any unit or division or by the Listed Entity, enlarging, restricting or closing the operations of any unit or division or proposing to enlarge, restrict or close the operations of any unit or division or otherwise or any other reason.
- Rationale for such change in character of business.
- Benefits/impact of such change in character of business, if any.

2. Disclosure content to report disruption of operations due to natural calamity:

- If and when a natural calamity occurs disrupting some or all operations of the Listed Entity, and if such disruption is material in the judgment of the Listed Entity, the Listed Entity, shall, as early as is practicable, on occurrence of such event keep exchanges informed of the occurrence of such disruptive natural calamity.
- Listed entity shall keep the Exchange informed of the impact of the disruptive natural calamity in terms of extent of damage caused in measurable terms like loss of production or value of assets lost/damaged, time required to restore normalcy, etc as soon as possible but not later than 15 days from the time of occurrence of the disruptive natural calamity. If for any reason the impact assessment is not completed in 15 days' time, the Listed entity shall inform the Exchanges about the status of assessment and expected date by which assessment will be completed. This disclosure shall also include whether this risk is covered by insurance and the value of insurance cover.
- Inform the Exchange as and when Listed Entity, in its judgment considers that normalcy is restored.

3. Disruption of operations of any one or more units or division or subsidiary of the listed entity due to events such as strikes, lockouts etc.

- **At the time of occurrence:**
Impact on the production/operations in case of strikes/lock outs. Factory/unit where the strike/lock out takes place including reasons for such strike.
- **Periodically, till complete normalcy is restored,:**
 - a) The impact of the strike/lock out in some quantifiable terms like loss of production, loss of man-days, etc.

b) Steps taken for restoration of normalcy.

c) Inform the Exchange as and when strike/lock out is called off along with quantitative information on actual impact of such strike / lock out.

4. Disclosure on commencement or closure of commencement operations.

- Listed Entity, should inform the Exchange if and when a material commercial production or service is commenced or shut down.
- The disclosure should also include projected financial impact with appropriate disclaimers of commencement/cessation of commercial production or services
- Listed Entity, shall issue a clarification to the Exchange if there is a material variation in the disclosures made earlier in this regard.

5. Disclosures regarding pricing/realization/profitability arising out of change in the regulatory framework:

- Listed Entity, shall inform the Exchange about material changes in pricing/realization/profitability arising out of change in the regulatory framework.
- The disclosure may also quantify impact of such regulatory framework on the pricing/realization if it is not in conflict with confidentiality requirements.

6. Disclosure relating to Litigation/dispute/regulatory action with a material impact:

- The Listed entity shall keep the Exchange informed of any litigation/dispute developments with respect to any dispute in conciliation proceedings, litigation, assessment, adjudication or arbitration to which it is a party or the outcome of which can reasonably be expected to have a material impact on its present or future operations or its profitability or financials. The Listed entity may consider the impact of such disclosure on legal/court proceedings while making the disclosures and make the disclosure accordingly. If, Listed Entity is of the opinion that making any such disclosure is not in the interest of the Listed Entity, disclosure may be limited to the extent of stating the occurrence of the event.
- The Listed Entity shall keep the Exchanges informed of cessation/conclusion/settlement of the above said litigation/dispute along with the concluding order or concluding settlement information.

7. (i) Litigation/dispute/regulatory action with a material impact:

- The listed entity shall notify the Exchange upon it or its key management personnel or its promoter / ultimate person in control becoming party to any litigation, assessment, adjudication, arbitration or dispute in conciliation proceedings or upon institution of any litigation, assessment, adjudication, arbitration or dispute including any ad-interim or interim orders passed against or in favour of the listed entity, the outcome of which can reasonably be expected to have a material impact.
- Brief details of litigation viz. name(s) of the court/ tribunal/agency where litigation is filed, brief details of dispute/litigation;
- Expected financial implications, if any, like compensation, penalty etc;

7. (ii) Periodically till the litigation is concluded or dispute is resolved :-

- The details of any material change in the status and / or any material development in relation to such proceedings;
- In the event of settlement of the proceedings, details of such settlement including - material terms of the settlement, compensation/penalty paid (if any) and impact of such settlement on the financial position of the listed entity.

8. Revision in Ratings:

- The Listed Entity shall promptly notify the Exchange, but not later than 24 hours, the details of any rating or revision in rating assigned to any debt or equity instrument of the Listed Entity or to any fixed deposit programme or to any scheme or proposal of the Listed Entity involving mobilization of funds whether in India or abroad provided the rating so assigned has been quoted, referred to, reported, relied upon or otherwise used by or on behalf of the Listed Entity.
- In case of downward rating, the disclosure may include reasons published by rating agency for such downward rating.

9. Disclosures relating to Any other information having bearing on the operation/performance of the Listed Entity as well as price sensitive information, which includes but not restricted to;

I. Issue of any class of securities.

- a) Type of securities proposed to be issued (viz. equity shares, convertibles etc.);
- b) Type of issuance (further public offering, rights issue, depository receipts (ADR/GDR), qualified institutions placement, preferential allotment, FCCB , ECB borrowings etc);
- c) Total number of securities proposed to be issued or the total amount for which the securities will be issued (approximately);

d) In case of preferential issue the listed entity shall disclose the following additional details to the Exchange

- i. Issue period;
- ii. Names of the investors and of these, which are promoters or promoter group entities,
- iii. Post allotment of securities: -outcome of the subscription, issue price / allotted price (in case of convertibles), number of investors
- iv. In case of convertibles; intimation on conversion of securities or on lapse of the tenure of the instrument;

II. Acquisition, merger, de-merger, amalgamation, restructuring, scheme of arrangement, spin off or selling divisions of the Listed Entity, delisting, redemption/ cancellation/retirement of any securities issued by the Listed Entity.

This should be informed at time of Board approval or any committee authorized by the Board.

• Acquisition / agreement to acquire:

- a) Name of the target entity
- b) Whether the promoter/ promoter group/ group companies have any interest in the entity being acquired? If yes, nature of interest and details thereof;
- c) Whether the acquisition would fall within related party transactions? If yes, whether the same is done at 'arm's length';
- d) Industry to which the entity being acquired belongs;
- e) Objects and effects of acquisition (including but not limited to, disclosure of reasons for acquisition of target entity, if its business is outside the main line of business of the listed entity);
- f) Brief details of any governmental or regulatory approvals required for the acquisition;
- g) Indicative time period for completion of the acquisition;
- h) Estimated cost of acquisition or the price at which the shares are acquired;
- i) Nature of consideration - whether cash consideration or share swap and details of the same;
- j) Percentage of shareholding / control acquired and / or number of shares acquired;
- k) Brief background about the entity acquired in terms of products/line of business acquired, date of incorporation, history of last 3 years turnover, country in which the acquired entity has presence and any other significant information (in brief);

*Explanation: For the purpose of the above disclosures the term 'acquisition' shall have the same meaning as defined in the Securities and Exchange Board of India (Substantial Acquisition of Shares and Takeovers) Regulations, 2011]

- **Amalgamation/ Merger**

- a) Name of the entity (ies) forming part of the amalgamation/merger;
- b) Whether the transaction would fall within related party transactions? If yes, whether the same is done at, arm's length;
- c) Area of business of the entity (ies);
- d) Rationale for amalgamation/ merger;
- e) In case of cash consideration amount or otherwise share entitlement/exchange ratio in relation to the amalgamation/merger; brief details of change in shareholding pattern (if any)of listed entity;

- **De-merger**

- a) Brief details of the division to be demerged;
- b) Turnover of the demerged division and as percentage to the total turnover of the listed
- c) Entity in the immediately preceding financial year / based on financials of the last financial year;
- d) Rationale for demerger;
- e) Brief details of change in shareholding pattern (if any)of all entities;
- f) In case of cash consideration – amount or otherwise share exchange ratio;
- g) Whether listing would be sought for the resulting entity;

- **Sale or disposal of unit or division or subsidiary of the listed entity:**

- a) The amount and percentage of the turnover or revenue or income and net worth contributed by such unit or division of the listed entity during the last financial year;
- b) Date on which the agreement for sale has been entered into
- c) The expected date of completion of sale/disposal;
- d) Consideration received from such sale/disposal;
- e) Brief details of buyers and whether any of the buyers belong to the promoter/ promoter group/group companies. If yes, details thereof.
- f) Whether the transaction would fall within related party transactions? If yes, whether the same is done at arm's length
- g) Additionally, in case of a slump sale, indicative disclosures provided for amalgamation/merger, shall be disclosed by the listed entity with respect to such slump sale.

h) For the purpose of this sub-clause, "slump sale" shall mean the transfer of one or more undertakings as a result of the sale for a lump sum consideration without values being assigned to the individual assets and liabilities in such sales.

- **Other Restructuring**

- a) Details and reasons for restructuring;
- b) Quantitative and/ or qualitative effect of restructuring;
- c) Details of benefit, if any, to the promoter/promoter group/group companies from such proposed restructuring;
- d) Brief details of change in shareholding pattern (if any) of all entities;
- e) Disclosure should include details like rationale for the scheme, the consideration involved, entities concerned in the transaction, (specifics on whether promoter / promoter group), clarity on whether it could be classified as a related party transaction, brief background of the business, financial impact, impact on shareholdings , additional approvals required before completion of transaction, effect of restructuring of debt or capital.

- **Voluntary delisting by the Listed Entity from the stock exchange(s).**

- **Any action, which will result in alteration in, the terms regarding redemption/ cancellation/retirement in whole or in part of any securities issued by the Listed Entity.**

III. In case of issuance of depository receipts (ADR/GDR) or FCCB the listed entity shall disclose following additional details to the Stock Exchange(s):

- i. Name of the Stock Exchange(s) where ADR/GDR/FCCBs are listed (opening – closing status) / proposed to be listed;
- ii. Existing number of ADR/GDR/FCCBs and number of holders, if any;
- iii. Proposed no. of equity shares underlying the ADR/GDR or on conversion of FCCBs;
- iv. Proposed date of allotment, tenure, date of maturity and coupon offered, if any of FCCB's;
- v. Issue price of ADR/GDR/FCCBs (in terms of USD and in INR after considering conversion rate);
- vi. Change in terms of FCCBs, if any;
- vii. Details of defaults, if any, by the listed entity in payment of coupon on FCCBs & subsequent updates in relation to the default, including the details of the corrective measures undertaken (if any);

10. Cancellation of dividend /rights/bonus, etc.

Companies should detail reasons for cancellation of the same.

Note: The term 'material' wherever appears in the guidance note shall mean any individual transaction or arrangement which, in the opinion of the Authority of the listed entity, is significant to the operations or performance of listed entity.

Dissemination:

The disclosures as per the guidance given above shall be made to the Exchange promptly and accurately and with due authorisation, such that present and potential investors are able to take informed decision relating to their investment in the Listed Entity. The Exchange will disseminate such information given by Listed Entity on its website. In case Exchange is of the opinion that the disclosure made is inadequate, the Exchange may seek further clarification/explanation from the Listed Entity. The Exchange will disseminate all the correspondence/ clarification received from the Listed Entity in relation to disclosure under Clause 36 on its website.
