PSA
LEGAL COUNSELLORS

# NEW DELISTING REGULATIONS FOR EQUITY SHARES

July 2009

The Securities and Exchange Board of India ("**SEBI**"), issued a notification dated June 10, 2009 on delisting of equity shares from stock markets through the SEBI (Delisting of Equity Shares) Regulations, 2009 ("**2009 Regulations**"). These Regulations came into force with immediate effect and cover additional grounds from the pre-existing delisting regulations of 2003 ("**2003 Regulations**").

Delisting essentially takes place when the securities of a publicly traded company are removed on account of certain reasons from the stock exchange where they are listed, and are broadly categorized as voluntary or compulsory delisting. The reasons for delisting are very company specific and cannot be generalized.

The 2009 Regulations have brought about some radical changes compared to the 2003 Regulations. Now, delisting will not be allowed against any preferential allotment made by a company nor will a promoter be allowed to use the funds of the company to finance an exit option. Even for a voluntary delisting of equity shares with an exit option, a shareholders' meeting has to be conducted through postal ballot and the resolution is to be acted upon only if the votes of the public shareholders in favour of the proposal is twice the number of votes against it. This is vastly different from the 2003 Regulations wherein only a special resolution had to be passed for a voluntary delisting.

In case of a compulsory delisting, the 2009 Regulations provide that the company, its whole-time directors, its promoters and any other companies promoted by them, will not be able to list equity shares in any recognized stock market for a period of ten years from the date of delisting. As per the 2003 Regulations, reinstatement of delisted securities could be done after a cooling period of two years itself.

New provisions for "small companies" have also been added to the 2009 Regulations. Small companies have been defined as those companies having a paid-up capital of INR 10 million (US $ 200,000 approximately) or less and whose shares have not been traded for the past one year on any recognized stock exchange. If the paid-up capital is more than INR 10 million (US $ 200,000 approximately), it should have less than three hundred shareholders to derive benefits of a "small company." Such "small companies" can get their equity shares delisted without following the lengthy procedure specified in the 2009 Regulations for other companies.

The 2009 Regulations appear to have brought more structure to the process of delisting of equity shares. An in-depth analysis of these regulations and its comparison with the 2003 Regulations will be discussed in detail in our forthcoming Capital Market Bulletin.

**Dhruv Suri**

**E-mail – d.suri@psalegal.com**

SITEMAP | CONTACT US

PSA © 2021 | Developed by iNFOTYKE