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NAVI MUMBAI

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ISBN 978-81-955937-0-5

CORPORATE LAW JOURNAL OF NMIMS NAVI MUMBAI

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MERGERS & ACQUISITIONS- REGULATORY FRAMEWORKS UNDER SEBI ACT & OTHER INDIAN REGULATIONS

- ***Adnan Hameed K.P***[108]

ABSTRACT

Our country, India, is on a path to becoming a global leader with its ever-evolvingeconomy that is opened up to the world. Along with the globalization of our economy, there were many concerns regarding the protection of the marginalized investors, and the government took initiatives to protect them. Various regulatory bodies like CCI & SEBI were incorporated for this purpose. In a growing corporate field, where the competition is high, not every company can sustain itself in this field, companies need to merge with or acquire other companies to maintain themselves and our government has made sure that these propositions are regulated and not chaotic. Without proper regulations, there is a high chance that ordinary investors will be facing many issues. It is usual for companies to pursue unfair mergers and acquisitions to form a monopolistic approach to control the market and increase their profit in the absence of such regulations. This paper will discuss, summarise & review a few of the regulatory frameworks of our country and will see how they have made the relevant market free and fair to each other.

Keywords*: Mergers, Acquisitions, Regulatory, Competition, Companies*

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INTRODUCTION

Our economy has been growing steadily for the past few years in all sectors are leading several markets right now. The aspect of Mergers & Acquisitions is at a point where they have gotten a significant impact in the current corporate world. These are used as methods to reform various trade organizations. In our country, the government was the [first] to commence corporate restructuring to save depleted companies. Because of the increasing day-by-day competition in the relevant markets, most companies lose out big time and will usually decide to merge into other big companies or get acquired by another company. In the market, the main objective of almost all the firms is to gather a massive network of consumers and generate profit via this. By merging with other companies with similar or common goals help they to retain their objectives. Mergers & Acquisitions are nowadays considered a peripheral expansion due to the sudden increase and leniency in regulations & privatization of public entities in most countries across the world. Ideally, Mergers & Acquisitions have paved the way for many companies to venture into new markets and study them while harnessing their knowledge and expanding beyond their potential, and improving upon their previous mistakes.

Mergers and acquisitions are governed by laws enacted by our government. The fear that mergers will eventually diminish competition between merging enterprises has led to regulation. This risk is more significant when the participants are direct competitors because courts frequently assume that such agreements are more likely to limit output and raise prices. Because of the risk that mergers and acquisitions will stifle competition, the government scrutinizes prospective mergers closely.

Without suitable rules, ordinary investors are likely to face a slew of problems; in the absence of such regulations, firms are likely to undertake unfair mergers and acquisitions to develop a monopolistic approach to market dominance and profit maximization. This paper will examine how a few of our country's regulatory frameworks have made the relevant market free and fair to each other by discussing, summarizing, and reviewing them.

INDIAN CONTRACTS ACT, 1872

Under the "*Indian Contract Act,"* a contract is defined as "*an agreement that is enforceable by law."*[109] This can be interpreted so that an agreement cannot be considered a contract until it has the backing of the law. From a close reading of the Indian Contract Act, we can see that consensus is the fundamental stone of contract law. There is a no of circumstances in which the agreement would not be in consensus with the law, like cases where "*the agreement has been made based on fraud.*[110]*, coercion*[111]*, undue influence*[112]*, misrepresentation*[113] *, by the incapacity of one or more of the parties,*[114] *or in cases where the subject matter of the contract is harmful in law*[115]*."*

I. Term sheet

In a typical acquisition, once the preliminary formalities of the acquisition are complete & the acquisition model and primary conditions are fixed, all of the fixed upon terms like the model, conditions, etc., are written down in a preliminary document called the memorandum of understanding or a term sheet. The object of this document is not to bind the parties but to make sure that all the parties have a complete understanding of the situation. This also provides an opportunity for the acquirer to do detailed due diligence.

There is no compulsion that the term sheet should be detailed; it can outline the commercial understanding like t no of shares involved in the transaction, the valuation of the company, etc.

While a term sheet according to the Indian law is not binding upon the parties per se, it is ideal for putting a provision that states that the sheet is binding since the Judiciary of our country has upheld in numerous cases such provisions and has enforced the same.[116]

II. An Acquisition Agreement

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[109] Indian Contract Act, 1872, § 2(h), No. 09, Acts of Parliament, 1872 (India)
[110] Indian Contract Act, 1872, § 17,No. 09, Acts of Parliament, 1872 (India)
[111] Indian Contract Act, 1872, § 15,No. 09, Acts of Parliament, 1872 (India)
[112] Indian Contract Act, 1872, § 16,No. 09, Acts of Parliament, 1872 (India)
[113] Indian Contract Act, 1872, § 18, No. 09, Acts of Parliament, 1872 (India)
[114]Indian Contract Act, 1872 § 11, No. 09, Acts of Parliament, 1872 (India)
[115] Indian Contract Act, 1872 § 23, No. 09, Acts of Parliament, 1872 (India)
[116] Authentic Lifestyle Broadcasting Pvt. v. Turner Asia Pacific Ventures Inc, Co, Co. Appl. No. 2076 of 2012 in Co. Pet. No. 20 of 2011

A share purchase agreement is drafted in the scenarios where the the acquisition of shares of a company takes place. This particular agreement contains provisions detailing the identity of both the parties, no of shares involved in the transaction, and the price at which the shares are transferred.

It is very often noted that the purchaser of the shares would ask the seller and the company involved to take care of certain things prior to the commencement of transfer of the shares, such as obtaining the necessary approvals, getting authorizations, carrying out a thorough audit of the company, etc. This will ensure that everything is incorrect during the time of acquisition and the firm is well. These activities that the seller or the firms are supposed to be carried out to satisfy the purchaser are predetermined and is known as conditions precedent, while on the other hand, the actions that need to take care of by the parties (including the firm) after the transfer of shares is known as conditions subsequent.

This agreement should also have clauses that define the representation and warranties made by each party and will also talk about the event of default and the consequences of the same.

III. Investment Agreement

In the situation where the firm's acquisition happens by the issue of new fresh shares, there would be the involvement of the investment agreement. In this scenario, the purchaser (hereby known as an investor) typically would be in a minority position concerning the other person who holds a controlling share. Typically, these acquisitions are made only for investment objectives, and the investor is not involved in the company's management. The clauses of the Investor Agreement would be similar to those of the Acquisition Agreement, except that the shares acquired would be obtained through the acquisition of new equity rather than the transfer of existing company shares. Because the issue of shares is a power of the company and the share price is paid to the company, the company's role in the scenario would be expanded.

Moreover, the provisions mentioned in the acquisition agreement would usually involve how the company should be managed jointly by the parties, including veto rights in a few matters, how the investors can appoint board members, inspect the company's documents, etc.

IV. Exit Provision

An exit provision is a predetermined set of conditions that enable minority investors to sell their shares. The investor may opt to sell their shares to generate more capital or as a reaction to the actions of the majority shareholder or the company.

A put option is basically an entitlement or right of a person to buy or sell the shares of the company; these options are made by shareholders agreement and represent the obligations of the parties involved in the transaction. When these options are exercised by one shareholder, the other will be obliged to purchase the shares at an earlier fixed price.

Put options are basically exit rights given to a private investor and VC investors of a company. This kind of investors invest in portfolio companies intending to profit from floatation of the shares in the markets provide ample liquidity and exit options. However, Private equity and venture capital investors seek contingency exit alternatives in their contracts with portfolio businesses and their controlling owners because the listing of shares is not always possible. The first is a corporate put option, which requires the firm or the majority shareholders to purchase back the investor's shares if the option is exercised.

The *"call option"* is the polar opposite of the *"put option* ."It allows the option holder to acquire (or "call") the shares held by other people at a fixed or ascertainable price at the moment the option is exercised. When majority owners want to combine their assets, they usually utilize this method. When any shareholder exits the firm in favor of the remaining shareholders, the call and put options are used. A third-party transfer, in which shares are transferred to an entity that is not a firm shareholder, is also feasible. However, such third-party transactions may be subject to restrictions. For example, if a strategic investor decides to depart the company, the promoter can demand that the investor first offer their shares to the promoter. If the investor disagrees with the promoter's offer, the investor has the option to sell their shares to a third party. This is referred to as a right of first refusal. The right of first refusal is a version of the right of the first offer. In this situation, a third-party transferee makes a definite offer to the leaving shareholder. The non-exiting shareholder is then informed of the offer and given the option to accept or reject it. If the offer is accepted by the non-leaving shareholder, the exiting shareholder is forced to sell their shares to the remaining shareholders. In that case, a third-party transfer is an option.

THE COMPANIES ACT, 2013

Following the Amendment of 2013, The companies Act 2013 replaced the age-old 1956 Act with some significant changes, including in Mergers and Acquisitions. The Act of 2013 was considered to be a more business-friendly regulation that enhanced the scope of disclosure norms and provided protection to the gullible investors and therefore made the process of

Mergers & Acquisitions more efficient and smooth. The present companies' act simplified the overall process of mergers, acquisitions, and restructuring and made Indian firms more approachable in terms of PE investments.

Under Indian Law, *"§ 230-232 of the Companies Act.*[117]*, 2013, read with Companies (Compromises, Arrangements and Amalgamations) Rules, 2016 deals with the Mergers and Amalgamation of the Companies and § 234 read with rule 25A of Companies (Compromises, Arrangements and Amalgamations) Rules, 2016 deals with Merger or Amalgamation of a foreign company with a company and vice-versa."*

"Chapter XV of the Companies Act, 2013[118]*"* deals with *"Compromises, Arrangements, and Amalgamations."* In this Specific chapter, the act aims to consolidate the provisions which are applicable and the issues of *"compromises, arrangements, and amalgamations"* related to them; But still, other §s of the act are also attached to the process at varying stages. In a Merger, the entire composition of one company, including all of its assets & liabilities, is absorbed by another company or an entirely new company. The 2013 Act also aimed to create *"the National Law Company Tribunal*," a new regulator who will assume the power of a court for approving mergers.[119]

I. Types of Mergers under Companies Act, 2013

There are five types of Mergers under the Companies Act, 2013 which are:

1. *Horizontal Merger:* This type of Merger involves two companies working in the same type of industry. This type of Merger aims to decrease the competition in the market or achieve a monopoly status and control the relevant market.

2. *Vertical Merger:* This type of Merger can be further classified into two types. The first one is where a company acquires another company that produces the "RAW MATERIALS" used by them. The other type happens in the event of one company acquiring another company to get closer to its customers.

3. *Co-Generic Merger*: This type of Merger talks about combining two or more companies that are similar to each other in customers group, functions, or technology.

[117] The Companies Act, 2013, No 18 , Acts of Parliament ,2013 (India)
[118] Chapter XV, The Companies Act, 2013
[119] The Companies Act, 2013, § 408, No 18 , Acts of Parliament ,2013 (India)

4. *Conglomerate Merger:* This type of Merger talks about combining two companies working in industries unrelated to each other.

5. *Cross-border mergers*[120]**:** The Companies Act of 2013 allows "in-principle" mergers between a foreign company & an Indian Firm situated within the local jurisdiction denoted by the central government in consense with the RBI. These kinds of mergers are subjected to approval from RBI, and the Scheme can provide a payout in depository receipts, cash, or both. This payout would provide an exit to the shareholders of the merging company who do not want to be a part of the newly formed merged company.

II. Significant Differences between *"The Companies Act, 1956 & The Companies Act, 2013"*

1. *Regulatory/Third-party approvals*: Since the consent of both shareholders and creditors is essential, and the Old companies act contemplates the issue of a notice to them.[121] The new act of 2013 requires the service of the notice of the Merger along with documents not only to the creditors & shareholders but also to *"Ministry of Corporate Affairs, Reserve Bank of India, SEBI, Competition Commission of India, Stock Exchanges, Income Tax authorities and other sector regulators or authorities which are likely to be affected by the merger."* This will guarantee that the Proposition complies with all other regulatory obligations. The Judiciary has made mergers subject to acquiring permits from the involved agencies under the 1956 Act. The 2013 Act, on the other hand, gives the involved regulators a 30-day opportunity to make their representations, after which the ability to do so will be lost. This is a positive step because delays in court proceedings can now be avoided.

2. *Approval of the proposal through postal ballot*[122]**:** The Old Act of 1956 required the presence of both the creditors & the shareholders in person or proxy for the meetings to cast their vote regarding the Merger, while the new Act of 2013 allows the creditors and the shareholders will also have the option to cast their votes through postal ballot while considering a Scheme. This will ensure greater

[120] The Companies Act 2013, § 234, No 18 , Acts of Parliament ,2013 (India)
[121] The Companies Act, 2013, § 230(5) , No 18 , Acts of Parliament ,2013 (India)
[122] The Companies Act, 2013, § 230(6), No 18 , Acts of Parliament ,2013 (India)

participation by the creditors & shareholders in the process and will be a more significant help to all the other shareholders who will not attend these meetings, usually due to various reasons.

3. *Valuation Report*[123]**:** The old act of 1956 does not say anything about the disclosure of the valuation report to the parties involved, usually for transparency, the companies will disclose the valuation report for inspection and in meetings. The New Act of 2013 now makes it mandatory for the company to annex the valuation report to all the notices for meetings so that the creditors and shareholders can access them readily.

4. *Objections*[124]**:** A very prevalent problem under the old act of 1956 was that it allowed individual creditors and shareholders to raise unnecessary objections to strong-arm the companies and harass them. Under the 2013 act, these kinds of objections were no longer available, and objections can only be raised by *"shareholders holding 10% or more equity and creditors whose debt represents 5% or more of the total debt as per the last audited financial statements."*

5. *The Merger between a listed firm & an unlisted firm*[125]: The New Act explicitly mentions that the Tribunal's approval of the Merger of a listed firm with an unlisted firm will not "*ipso facto*" make the unlisted company listed. Unless the applicable listing requirements and SEBI criteria for allotment of shares to public shareholders are followed, the company will remain unlisted. Moreover, in instances where the shareholders of the listed firm exercised their right to exit, the unlisted firm would handle this exit with a pre-agreed price within the price specified by SEBI. The securities law of our country dictates strict laws regarding the listing of firms. On a case-by-case basis, SEBI had simplified these restrictions for listed businesses considering mergers by granting them exemptions from the IPO standards. SEBI has published rules indicating that if the Proposition provides for the listing of shares of an unlisted company without following the initial public offering requirements, the unlisted company must file a separate application with SEBI after the Scheme has been approved by the court. Such an application must be made

[123] The Companies Act, 2013, § 232(2), No 18 , Acts of Parliament ,2013 (India)
[124] The Companies Act, 2013, § 230(4), No 18 , Acts of Parliament ,2013 (India)
[125] The Companies Act, 2013, § 232(3)(h), No 18 , Acts of Parliament ,2013 (India)

upon, "among other things," the allotment of equity shares to the holders of the listed company's securities.

THE COMPETITION ACT, 2002

The Competition Act, 2002 gives particular emphasis to the aspect of anti-competitive agreements and *"provides that any agreement entered into by business entity engaged in identical or similar trade of goods or provision of services, regarding any aspect/s of business which has the effect of causing an appreciable adverse effect on competition within India is regarded as anti-competitive agreement and is consequently considered void."*[126]

Agreements that can restrict competitions can be classified into two types. The horizontal agreement is made between competitors in the same market, while Vertical Agreements are made between firms at various stages of the production chain in various markets. The § within the act, which forbids anti-competitive agreements, does not apply to *"agreements entered into by way of joint ventures if such agreement increases efficiency in production, supply, distribution, storage, acquisition or control of goods or provisions of services."*[127]

I. Combination Regulations

The Government of India was very much concerned about preventing mergers & acquisitions that could cause a decisive effect on the competition sector within their relevant market, and therefore, they made relevant provisions to curtail this issue and to regulate Mergers (also known as combinations in the Competition Act) & Acquisitions in the *"Competition Commission of India (Procedure in regard to the transaction of business relating to combinations) Regulations, 2011" (Also Known as Combination Regulations).*

Any type of Merger or Acquisition between any companies in our country is known as a combination[128]. However, for these provisions to be violated, the given Merger or acquisition must exceed a few predetermined thresholds (which are calculated based on assets, turnover liabilities, etc.) under the Combination Regulations.

A merger that may cause an adverse effect on competition in the related market is strictly prohibited in our country.[129] According to the Act, *"the Competition Commission of India (CCI)"* has to be informed about the proposal of such mergers, and if they failed to do these,

[126] Competition Act, 2002, § 3, No 12 , Acts of Parliament ,2002 (India)
[127] Competition Act, 2002, § 3(3) , No 12 , Acts of Parliament ,2002 (India)
[128] Competition Act, 2002, § 5, No 12 , Acts of Parliament ,2002 (India)
[129] Competition Act, 2002, § 6(1), No 12 , Acts of Parliament ,2002 (India)

then they may attract a fine that can extend up *to "1 % of the total turnover or the assets of the merged company."* The concerned party has 30 days from the Merger's approval by the board of the companies involved to notify the CCI.[130] CCI can take up to 210 days to deliberate upon the notification and deliver a verdict regarding whether the Merger will have any unfavorable effect on the competition in the concerned market.[131] If the Commission does not give its verdict within 210 days, then the mergers are deemed to have no adverse effects on the market.

The Competition Commission of India use variable factors like *"(a)Actual and potential level of competition through imports in the market (b) Extent of barriers to entry in the market (c) Level of combination in the market (d) Degree of countervailing power in the market (e) Nature and extent of vertical integration in the market"*[132] etc., to determine whether a merger has any adverse effects on the competition in the concerned market.

II. Powers of CCI

The *"Competition Commission of India (CCI)"* was formulated in 2003 under "*the Competition Act, 2002"* as our country's anti-trust watchdog that would act as a regulator to control and protect our companies against monopolistic & anti-trust activities that increased due to the globalization of the Indian Market.

The Commission is a "Quasi-Judicial body" that can adjudicate upon the cases that fall under the Competition Act. The main objective of the CCI is to prevent activities that could have a negative effect on the competition by promoting and sustaining competition in the markets to ensure fair competition in the relevant markets of our country and protect the interest of consumers.[133]

The Commission has the power to grant interim reliefs[134] Alternatively, any other situation-oriented reliefs and can direct the Director-General of CCI to start any investigation.[135] The CCI also has powers to penalize the parties involved for violating its orders or failure to follow its directions.

After being notified about the proposed Merger, the Commission looks into the disclosure and decides whether the Merger will have a negative impact on competition and takes necessary

[130] Competition Act, 2002, § 6 (2) , No 12 , Acts of Parliament ,2002 (India)
[131] Competition Act, 2002, § 6(2A), No 12 , Acts of Parliament ,2002 (India)
[132] Competition Act, 2002, § 20(4) , No 12 , Acts of Parliament ,2002 (India)
[133] Preamble, Competition Act, 2002
[134] Competition Act, 2002, § 33 , No 12 , Acts of Parliament ,2002 (India)
[135] Competition Act, 2002, § 29, No 12 , Acts of Parliament ,2002 (India)

steps to prevent these kinds of mergers. The parties involved can go for an appeal to the order of the Commission within 60 days before the Competition Appellate Tribunal. [136]

SECURITIES LAWS IN INDIA

The Securities and Exchange Board of India (SEBI) I the highest authority regarding the listed & unlisted firms on the stock exchanges in our country. *"The SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 2011 (Also known as the Takeover Code)"* Prohibits and controls the acquisition of shares, voting rights, and other aspects of listed companies. When a party Acquires more than 25% of the shares of the company, it entitles the shareholder to exercise his right to make an offer to the remaining shareholders of the involved company further to obtain a minimum of 26% of the shares to gain control of the company.[137]

Moreover, if the acquirer already has *"25% or more but less than 75% of the company"* and moves on to acquire a minimum of 5% shares in the company within the financial year, then he/she shall have to make an open offer in the market, this is strictly subjected to the exemptions given under the Takeover Code. [138] The SEBI is also empowered to grant relaxations or exemptions from the obligations for the open offer in respect to the situation and the market; These relaxations can be asked by the acquirer in the way of an application in front of SEBI.

"The SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 (Listing Regulations)" makes way for a complete framework to control various types of listed firms. Under these regulations, SEBI has brought conditions to be followed by a listed firm while drafting an application in front of the NCLT for the approval of the Merger Proposal. Few Major Provisions of this Regulation are:

a) *Filing of Scheme with the Stock Exchange*[139]

Any listed firm which is planning on getting involved in a merger must file the draft scheme with the concerned stock exchanges before filing them in front of the NCLT. They would have to obtain a no-objection certificate from the concerned stock exchange for the Merger to move forward.

[136] Competition Act, 2002, § 53B, No 12 , Acts of Parliament ,2002 (India)s
[137] The SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 2011, 3 read with 7
[138] The SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 2011, 10(1)(d)
[139] The SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015, 37(1)

b) *Complying with securities law*[140]

The listed firms should ensure that their Scheme does not override or violate any of the provisions of the concerned securities law or the relevant stock exchanges.

c) *Change in the Shareholding Pattern*[141]

As per the securities law, the listed firms are supposed to file both the pre & post-merger shareholding pattern and the new current capital structure with the relevant stock exchanges.

d) *Corporate actions pursuant to Merger*[142]

The listed firms should mandatorily disclose to the relevant stock exchanges all the information related to the performance of the company.

"Securities and Exchange Board of India (Issue of Capital and Disclosure Requirements) Regulations, 2018 (ICDR Regulations)" is the law that is applied if the acquisition of the Indian firm deals with the issuance of new equity shares or securities convertible into equity shares (also known as specified securities) by the target firm to the acquiring company. A few of the critical provisions in these regulations are:

a) *Pricing of the Issue*[143]

Chapter V of the ICDR Regulations, also known as the Preferential Issue Regulations, decides the floor price for the share issue. *"If the equitthe issuer have been listed on a recognized stock exchange for a period of 26 weeks or more as on the relevant date,26 the floor price of the shares shall be higher of the average of the weekly high and low of the volume-weighted average prices of the stock of the company either (a) over a 26 week period; or, (b) a two week period preceding the relevant date."*[144]

b) Lock-in Period

The26 weeksh are issued to the person acquiring the company are locked in for one year from the two weeksdate. Moreover, if the person who is acquiring the firm holds any equity shares of the company before the allotment of preferential shares, then such equity shares will be

[140] The SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015, 11
[141] The SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015, 69(2)
[142] The SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015, 51
[143] Securities and Exchange Board of India (Issue of Capital and Disclosure Requirements) Regulations, 2018, 164(1)
[144] Ibid

locked-in for six months. If the securities of the company are allotted based on preferential to the promoters, then they are locked in for three years. All of the above lock-in periods start from the date of trade approval in the relevant stock exchanges.[145] These kinds of locked-in securities can be transferred between the promoters or any person within the company itself, provided that the new owner of the securities will have to undergo the rest of the lock-in period.[146]

c) *Exemption to court-approved Merger*[147]

In a scenario where the preferential share allotment is done based on a scheme of Merger approved by the NCLT, the Preferential Issue Regulations will not apply.

"The SEBI (Delisting of Equity Shares) Regulations, 2009 (SEBI Delisting Regulations)" has a detailed out method and conditions for the delisting firms which are listed in relevant stock exchanges. These regulations allow an acquirer & the promoter of the firm to start the delisting procedure. These regulations are with consensus to the Takeover Code, and under Regulation 5A of the code, A person who is acquiring the firm may delist the firm in the event of an open offer as with the Delisting regulations provided that the acquirer declares his intention upfront.

The *"SEBI (Prohibition of Insider Trading) Regulations, 2015 (PIT Regulations)"* These regulations prohibit any sort of Insider from communicating "*unpublished price sensitive information (UPSI)"* and also any person from procuring unpublished price sensitive information from an insider.

Under these rules, an insider is defined as someone who is connected to or in possession of UPSI[148]. UPSI is defined under regulations as any info relating to a firm or its securities directly or indirectly that is not available in the general market and which, when it is made available for the general public, is likely to affect the market. [149] Moreover, under these regulations, the Insider is exempted from the PIT regulations in certain circumstances where such reveal was done for a legitimate purpose or as part of his duties or to discharge legal obligations.[150]

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145 Securities and Exchange Board of India (Issue of Capital and Disclosure Requirements) Regulations, 2018, 167

146 Securities and Exchange Board of India (Issue of Capital and Disclosure Requirements) Regulations, 2018, 168

147 Securities and Exchange Board of India (Issue of Capital and Disclosure Requirements) Regulations, 2018, 158

148 SEBI (Prohibition of Insider Trading) Regulations, 2015, 2(g)

149 SEBI (Prohibition of Insider Trading) Regulations, 2015, 2(n)

150 SEBI (Prohibition of Insider Trading) Regulations, 2015, 3(I)

A significant change that was incorporated by this regulation was the introduction of trading plans.[151] Ideally, any person under the Insider criteria should make trading plans to protect UPSI with safeguards. These plans have to cover at least one year and should be reviewed and approved by the company's compliance officer and then disclosed to the general public.

The PIT Regulations include a particular exception for communication and information gathering (due diligence) in mergers and acquisitions deals.[152]

The disclosure requirements for various kinds of persons involved in the company's business are a crucial component of the insider trading standards. It is important to remember that, *"going forward, every promoter, member of the promoter group, designated persons, key managerial personnel,"* and director of a company will be required to disclose his holdings of the company's securities as of the date of appointment/notification of the PIT Regulations, which is May 15, 2015. More crucially, every promoter, promoter group member, designated person, or director would be compelled to submit ongoing disclosures.[153]

CONCLUSION

After carefully looking into the few of the regulating frameworks that are related to Mergers & Regulations in our country, we can see that the main objective of all of these frameworks are:-

i. To protect shareholder rights and their interests.

ii. To provide adequate compensation for shareholders in open offers

iii. To allow a free & fair market with transparent and equitable corporate control

iv. To provide a safe exit for shareholders who wish to leave

v. To curb any sort of malpractices related to Mergers & Acquisitions

In order to make our markets safer, The regulator bodies like SEBI & DCA, along with the government, is working hard to protect the interest of the shareholders. For this, there have been quite a few changes in the regulatory framework of our country, which includes but not limited to listing rules, in-depth monitoring of Mergers and Acquisitions Under the Takeover

[151] SEBI (Prohibition of Insider Trading) Regulations, 2015, 5
[152] SEBI (Prohibition of Insider Trading) Regulations, 2015, 3(3)
[153] SEBI (Prohibition of Insider Trading) Regulations, 2015, 7(1)

Code and instructing the concerned stock exchanges to take severe actions against parties who are not complying with the listing agreements.

During these modern times, Shareholding in firms and ownership in firms has created a significant impact. It is essential to ensure smooth corporate governance in a growing progressive nation like ours. SEBI has adopted various measures since control has become a complicated issue. SEBI established these regulations to induce a more smooth functionality of corporate governance in our country.

Like every other law of our country, the laws mentioned above are also not perfect, and there still exist loopholes that the parties are exploiting. In this ever-evolving phase of our growing economy, we can surely hope that the government and the regulating bodies concerned will do their part of the job and lead our nation to a corporate-friendly country while protecting the marginalized consumers.

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