THE GAZETTE OF INDIA
EXTRAORDINARY
PART III - SECTION 4
PUBLISHED BY AUTHORITY
NOTIFICATION
THE 29TH DAY OF DECEMBER, 1993
BOMBAY

SECURITIES AND EXCHANGE BOARD OF INDIA (DEBENTURE TRUSTEES) REGULATIONS, 1993

SEBI/LE/12/93. In exercise of the powers conferred by section 30 of the Securities and Exchange Board of India Act, 1992 (15 of 1992), the Board with the previous approval of the Central Government hereby makes the following regulations, namely: -

Chapter I
PRELIMINARY

Short title and commencement.

1. (1) These regulations may be called the Securities and Exchange Board of India (Debenture Trustees) Regulations, 1993.

Definitions.

2. In these regulations, unless the context otherwise requires,—

1**[**(a) "Act" means the Securities and Exchange Board of India Act, 1992 (15 of 1992)**]**

2[(aa) "associate" shall mean any entity which is an associate under sub-section (6) of section 2 of the Companies Act, 2013 or under the applicable accounting standards and shall include a person whose director, is also a director, of the debenture trustee or the body corporate, as the case may be.]

3[(ab) "body corporate" shall have the meaning assigned to it in or under sub-section (11) of section 2 of the Companies Act, 2013 and for the purpose of these regulations, includes a public financial institution as defined under sub-section (72) of section 2 of the Companies Act, 2013, a non-banking financial company, public sector undertaking established under any Central or State enactment which has its debt securities listed or which seeks to list its debt securities on a recognized stock exchange in accordance with the Securities and Exchange Board of India (Issue and Listing of Debt Securities) Regulations, 2008, or any other issuer of debt securities in accordance with any Regulations issued by the Board.]

1 Inserted by the SEBI (Debenture Trustees) (Amendment) Regulations, 2006, w.e.f., 7-9-2006.

2 Substituted by the SEBI (Debenture Trustees) (Amendment) Regulations, 2017, w.e.f., 13-7-2017. Prior to the same, clause (aa), inserted by the SEBI (Debenture Trustees) (Second Amendment) Regulations, 2000,w.e.f., 8-8-2000, read as follows:

"associate" in relation to a debenture trustee, or body corporate shall include a person,—

(i) who, directly or indirectly, by himself, or in combination with relatives, exercises control over the debenture trustee or the body corporate, as the case may be, or

(ii) in respect of whom the debenture trustee or the body corporate, as the case may be, directly or indirectly, by itself, or in combination with other persons, exercises control, or

(iii) whose director, is also a director, of the debenture trustee or the body corporate, as the case may be.

Explanation: For the purpose of this regulation, the expression "control" shall have the same meaning as defined under clause (c) of Regulation 2 of the Securities and Exchange Board of India (Substantial Acquisition of Shares and Takeovers) Regulations, 1997;]

3 Substituted ibid. Prior to the same, clause (ab), inserted by the SEBI (Debenture Trustees) (Amendment) Regulations, 2006, w.e.f. 7-9-2006, read as follows:

"(ab) "body corporate" shall have the meaning assigned to it in or under clause (7) of section 2 of the Companies Act, 1956 (1 of 1956)."

(ac)"certificate" means a certificate of [4][5[***] registration granted] by the Board under these regulations;

(ad) [6][***]

(ae)"change in control", in relation to a debenture trustee, means :—

7[(i) if its shares are listed on any recognised stock exchange, change in control as per the provisions of regulation 4 of the Securities and Exchange Board of India (Substantial Acquisition of Shares and Takeovers) Regulations, 2011;]

(ii) in any other case, change in the controlling interest in the body corporate;

Explanation: For the purpose of sub-clause (ii), the expression "controlling interest" means an interest, whether direct or indirect, to the extent of at least fifty one per cent of voting rights in the body corporate;]

8 [(b) "Companies Act" means the Companies Act, 2013 (Act 18 of 2013);]

9[(ba) "debenture" means a debenture within the meaning of sub-section (30) of section 2 of the Companies Act, 2013;]

4 Substituted by the SEBI (Debenture Trustees) (Amendment) Regulations, 2011, w.e.f. 5-7-2011 for the words "registration granted or renewed".

5 The words "initial or permanent" were omitted by the Securities and Exchange Board of India (Change In Conditions of Registration Of Certain Intermediaries) (Amendment) Regulations, 2016 w.e.f. 08-12-2016. 6 Omitted by the SEBI (Change in conditions of Registration of Certain Intermediaries)(Amendment) Regulations, 2011, w.e.f. from 13-4-2011. Prior to omission, this clause read as under:

"change of status or constitution" in relation to a debenture trustee—

(i) means any change in its status or constitution of whatsoever nature; and

(ii) without prejudice to generality of sub-clause (i), includes— (A) amalgamation, demerger, consolidation or any other kind of corporate restructuring falling within the scope of section 391 of the Companies Act, 1956 (1 of 1956) or the corresponding provision of any other law for the time being in force;

(B) change in its managing director or whole-time director; and

(C) any change in control over the body corporate; 7 Substituted by the SEBI (Debenture Trustees) (Amendment) Regulations, 2017, w.e.f., 13-7-2017. Prior to the same, clause (i) read as follows:

"if its shares are listed on any recognised stock exchange, change in control within the meaning of regulation 12 of the Securities and Exchange Board of India (Substantial Acquisition of Shares and Takeovers) Regulations, 1997;"

8 Substituted by the SEBI (Debenture Trustees) (Amendment) Regulations, 2017, w.e.f., 13-7-2017. Prior to the same, clause (b) read as follows:

""*Companies Act" means the Companies Act, 1956 (1 of 1956);"*

9 Substituted by the SEBI (Debenture Trustees) (Amendment) Regulations, 2017, w.e.f., 13-7-2017. Prior to the same, clause (ba) read as follows:

""debenture" means a debenture within the meaning of sub-section (12) of section 2 of the Companies Act, 1956 (1 of 1956);"

10[(bb) "debenture trustee" means a trustee appointed in respect of any issue of debentures of a body corporate;]

11 **[***]**

(c) "Form" means Forms specified in Schedule I;

(d) "Inspecting authority" means one or more persons appointed by the Board to exercise powers conferred under Chapter IV;

12[(e) "insurance company" has the same meaning assigned to it under sub-section (7A) of section 2 of the Insurance Act, 1938;]

13[(ea) "issue" means an offer of debentures by a body corporate, to the public, or

the holders of securities of such body corporate and includes a private placement of debentures made by a body corporate, which seeks to list its debt securities on a recognized stock exchange;]

14[(ee) "networth" means aggregate of value of the paid-up equity capital and free reserves (excluding reserves created out of revaluation) reduced by the aggregate value of accumulated losses and deferred expenditure not written off (including miscellaneous expenses not written off) as per the latest audited balance sheet;]

15[(f) "principal officer" means,—

a key managerial personnel as defined under sub section (51) of section 2 of the Companies Act, 2013, and shall include any person connected with the management or administration of the body corporate upon whom the Board has served notice of its intention of treating him as the principal officer thereof;]

(g) "regulations" means Securities and Exchange Board of India (Debenture Trustees) Regulations, 1993;

(h)16**[***]**

10 Substituted by the SEBI (Debenture Trustees) (Amendment) Regulations, 2017, w.e.f., 13-7-2017. Prior to the same, clause (bb) read as follows:

""debenture trustee" means a trustee of a trust deed for securing any issue of debentures of a body corporate;"

11 Omitted by the SEBI (Procedure for Holding Enquiry by Enquiry Officer and Imposing Penalty) Regulations, 2002, w.e.f. 27-09-2006.

12 Substituted by the SEBI (Debenture Trustees) (Amendment) Regulations, 2017, w.e.f., 13-7-2017. Prior to the same, clause (e) read as follows:

"insurance company" means a company as defined in clause (21) of section 2 of the Companies Act;" 13 Substituted ibid. Prior to the same, clause (e), inserted by the SEBI (Debenture Trustees) (Amendment) Regulations, 2006, w.e.f. 7-9-2006, read as follows:

""issue" means an offer of sale of securities by any body corporate or by any other person or group of persons on its or their behalf, as the case may be, to the public, or the holders of securities of such body corporate or person or group of persons and includes a private placement of debentures made by a listed company, which are proposed to be listed;"

14 Inserted by the SEBI (Debenture Trustees)(Amendment) Regulations, 2003, w.e.f.4-7-2003.

15 Substituted by the SEBI (Debenture Trustees) (Amendment) Regulations, 2017, w.e.f., 13-7-2017. Prior to the same, clause (f) read as follows:

"*"principal officer" means,—*

(i) a secretary, manager or director of the body corporate; or

(ii) any person connected with the management or administration of the body corporate upon whom the Board has served notice of its intention of treating him as the principal officer thereof;

16 Omitted by the SEBI (Debenture Trustees) (Amendment) Regulations, 2006, w.e.f. 7-9-2006**.** Prior to its omission, clause (h) read as under:-

"(h) "rules" means Securities and Exchange Board of India (Debenture Trustees) Rules, 1993;"

(i) "scheduled bank" means a scheduled bank as defined in clause (e) of section 2 of the Reserve Bank of India Act, 1934 (2 of 1934);

17**[**(ia) "trust deed" means a deed executed by the body corporate in favour of the trustees named therein for the benefit of the debenture holders;**]**

18[(ib) "recognised stock exchange" shall have the same meaning assigned to it under sub-section (f) of section 2 of the Securities Contracts (Regulation) Act, 1956.]

(j)all other words and expressions used in these regulations but not defined, and defined in the Act 19**[***]** shall have the meanings respectively assigned to them in the Act 20**[***]**.

21[**Power of the Board to issue clarifications.**

2A. In order to remove any difficulties in respect of the application or interpretation of these regulations, the Board may issue clarifications or guidelines in the form of circulars.]

Chapter II
REGISTRATION OF DEBENTURE TRUSTEES

Application for grant of certificate [22]**[of** [23]**[***] registration].**

3. (1) An application by a debenture trustee for grant of a certificate [24][of [25][***] registration] shall be made to the Board in Form A.

[26]**[**(1A) An application for registration made under sub-regulation (1) shall be accompanied by a non-refundable application fee as specified in Schedule II.**]** (2) Notwithstanding anything contained in sub-regulation (1), any application made by a debenture trustee prior to coming into force of these regulations containing such particulars as near thereto as mentioned in Form A shall be treated as an application made in pursuance of sub-regulation (1) and dealt with accordingly.

Furnishing of further information, clarification, etc.

4. (1) The Board may require the applicant to furnish further information or clarification regarding matters which are relevant to a debenture trustee to consider the application for a grant of a certificate.

(2) The applicant or, its principal officer shall, if so required, appear before the Board for personal representation.

17 Inserted by the SEBI (Debenture Trustees) (Amendment) Regulations, 2006, w.e.f. 7-9-2006.

18 Inserted by the SEBI (Debenture Trustees) (Amendment) Regulations, 2017, w.e.f., 13-7-2017.

19 Words "and the rules" omitted by the SEBI (Debenture Trustees) (Amendment) Regulations, 2006, w.e.f. 7-9-2006,respectively.

20 Words "or the Rules, as the case may be" omitted by the SEBI (Debenture Trustees) (Amendment) Regulations, 2006, w.e.f. 7-9-2006,respectively.

21 Inserted by the SEBI (Debenture Trustees) (Amendment) Regulations, 2003, w.e.f. 4-7-2003**.**

22 Inserted by SEBI (Debenture Trustees) (Amendment) Regulations, 2011, w.e.f. 5-7-2011.

23 The word "initial" was omitted by the Securities and Exchange Board of India (Change In Conditions Of Registration Of Certain Intermediaries) (Amendment) Regulations, 2016 w.e.f. 08-12-2016.

24 Inserted by SEBI (Debenture Trustees) (Amendment) Regulations, 2011, w.e.f. 5-7-2011.

25 The word "initial" was omitted by the Securities and Exchange Board of India (Change In Conditions Of Registration Of Certain Intermediaries) (Amendment) Regulations, 2016 w.e.f. 08-12-2016.

26 Inserted by the SEBI (Debenture Trustees) (Amendment) Regulations, 2006, w.e.f. 7-9-2006.

Application to conform to the requirements.

5. Subject to the provisions of sub-regulation (2) of regulation 3, any application, which is not complete in all respects and does not conform to the instructions specified in the form, shall be rejected:

Provided that, before rejecting any such application, the applicant shall be given an opportunity to remove within the time specified such objections as may be indicated by the Board.

Consideration of application.

6. The Board shall take into account for considering the grant of a certificate, all matters which are relevant to a debenture trustee and in particular the following, namely, whether the applicant,—

(a) has the necessary infrastructure like adequate office space, equipments, and manpower to effectively discharge his activities;

(b) has any past experience as a debenture trustee or has in his employment minimum two persons who had the experience in matters which are relevant to a debenture trustee;

(c) or any person, directly or indirectly connected with the applicant has not been granted registration by the Board under the Act;

27[(d) has in his employment at least one person who possesses the professional qualification in law from an institution recognised by the Government;]

(e)or any of its director or principal officer is or has at any time been convicted for any offence involving moral turpitude or has been found guilty of any economic offence ;

28[(f) is a fit and proper person;]

29 [(g) fulfills the capital adequacy requirements specified in regulation 7A.]

30**[Criteria for fit and proper person**

6A. For the purpose of determining whether an applicant or the debenture trustee is a fit and proper person the Board may take into account the criteria specified in Schedule II of the Securities and Exchange Board of India (Intermediaries) Regulations, 2008.**]**

31[**Eligibility for being debenture trustee**.

27 Substituted by the SEBI (Debenture Trustees) (Amendment) Regulations, 2003, w.e.f. 4-7-2003. Prior to its substitution clause (d) read as under :

"(d) has in its employment at least one person who possesses the professional qualification from an institution recognized by the Government in finance, accountancy, law or business management. "

28 Inserted by the SEBI (Debenture Trustees) (Amendment) Regulations, 1998, w.e.f. 5-1-1998.

29 Inserted by the SEBI (Debenture Trustees) (Amendment) Regulations, 2003, w.e.f. 4-7-2003.

30 Substituted by the Securities and Exchange Board of India (Intermediaries) Regulations, 2008, w.e.f. 26-5-2008. Prior to its substitution regulation 6A read as under:

"Applicability of Securities and Exchange Board of India (Criteria for Fit and Proper Person) Regulations, 2004.

31 Substituted by the SEBI (Debenture Trustees) (Amendment) Regulations, 2017, w.e.f., 13-7-2017. Prior to the same, regulation 7 read as follows:

"Eligibility for being debenture trustee.

7. No person shall be entitled to act as a debenture trustee unless he is either—

(a) a scheduled bank carrying on commercial activity; or

(b) a public financial institution within the meaning of section 4A of the Companies Act, 1956; or (c) an insurance company; or

(d) body corporate."

7. No person shall be entitled to act as a debenture trustee unless it is :—

(a) a scheduled bank carrying on commercial activity; or

(b) a public financial institution as defined sub-section (72) of section 2 of the Companies Act, 2013; or

(c) an insurance company; or

(d) body corporate as defined under sub-section (11) of section 2 of the Companies Act, 2013.]

32[**Capital Adequacy Requirement.**

7A. The capital adequacy requirement referred to in clause (g) of regulation 6 shall not be less than the net worth of 33[ten] crore rupees:

34[Provided that a debenture trustee holding certificate of registration as on the date of commencement of the Securities and Exchange Board of India (Debenture Trustees) (Amendment) Regulations, 2019 shall fulfil the net worth requirements within three years from the date of such commencement.]

35[***]

36[**8. Grant of certificate of 37[***] registration.**

(1) The Board on being satisfied that the applicant is eligible, shall send an intimation to the applicant, within one month of such satisfaction, that it has been found eligible for grant of certificate of 38[***] registration and grant a certificate in Form B.

39[(2) The certificate of registration granted under sub-regulation (1) shall be valid unless it is suspended or cancelled by the Board.]

32 Substituted by the SEBI (Debenture Trustees) (Second Amendment) Regulations, 2011, w.e.f. 14-12-2011. Prior to substation, as inserted by the SEBI (Debenture Trustees) (Amendment) Regulations, 2003, w.e.f. 4-7-2003, it read as under:

"Capital Adequacy Requirement.

7A. The capital adequacy requirement referred to in clause (g) of regulation 6 shall not be less than the networth of one crore rupees:

Provided that a debenture trustee holding certificate of registration as on the date of commencement of the Securities and Exchange Board of India (Debenture Trustees) (Amendment) Regulations, 2003 shall fulfill the networth requirements within two years from the date of such commencement."

33 Substituted for the word "two" by the Securities and Exchange Board of India (Debenture Trustees) (Amendment) Regulations, 2019 w.e.f. May 07, 2019.

34 Inserted by the Securities and Exchange Board of India (Debenture Trustees) (Amendment) Regulations, 2019 w.e.f. May 07, 2019.

35 Proviso was omitted by the Securities and Exchange Board of India (Change In Conditions Of Registration Of Certain Intermediaries) (Amendment) Regulations, 2016 w.e.f. 08-12-2016. Prior to omission the proviso read as under:

“Provided that a debenture trustee, who was granted a certificate of initial or permanent registration, as the case may be, under these regulations prior to the commencement of the Securities and Exchange Board of India (Debenture Trustees) (Second Amendment) Regulations, 2011, shall raise its networth to the said minimum within a period of two years from such commencement.]”

36 Substituted by SEBI (Debenture Trustees) (Amendment) Regulations, 2011, w.e.f. 5-7-2011.Prior to substitution, it read as under:

"Procedure for registration.

8. The Board on being satisfied that the applicant is eligible, shall send an intimation to the applicant mentioning that he has been found eligible for the grant of certificate and grant a certificate in Form B, subject to the payment of fees as specified in regulation 12."

37 The word “initial” was omitted by the Securities and Exchange Board of India (Change In Conditions Of Registration Of Certain Intermediaries) (Amendment) Regulations, 2016 w.e.f. 08-12-2016.

38 The word “initial” was omitted by the Securities and Exchange Board of India (Change In Conditions Of Registration Of Certain Intermediaries) (Amendment) Regulations, 2016 w.e.f. 08-12-2016.

40[(3) The debenture trustee who has already been granted certificate of registration by the Board, prior to the commencement of the Securities and Exchange Board of India (Change in Conditions of Registration of Certain Intermediaries) (Amendment) Regulations, 2016 shall be deemed to have been granted a certificate of registration, in terms of sub-regulation (1).]

(4) The grant of a certificate of 41[***] registration shall be subject to payment of the registration fee as specified in Schedule II of these regulations.

8A. 42**[***]**

9.43[***]

39 Substituted by the Securities and Exchange Board of India (Change In Conditions Of Registration Of Certain Intermediaries) (Amendment) Regulations, 2016 w.e.f. 08-12-2016. Prior to substitution sub-regulation (2) read as under:

“(2) The certificate of initial registration granted under sub-regulation (1) shall be valid for a period of five years from the date of its issue to the applicant.”

40 Substituted by the Securities and Exchange Board of India (Change In Conditions Of Registration Of Certain Intermediaries) (Amendment) Regulations, 2016 w.e.f. 08-12-2016. Prior to substitution sub-regulation (2) read as under:

“(3) The debenture trustee who has already been granted a certificate of registration by the Board, prior to the commencement of the Securities and Exchange Board of India (Debenture Trustees) (Amendment) Regulations, 2011, and has not completed a period of three years, shall be deemed to have been granted a certificate of initial registration for a period of five years from the date of its certificate of registration, subject to payment of fee for the remaining period of two years, as specified in Schedule II of these regulations.”

41 The word “initial” was omitted by the Securities and Exchange Board of India (Change In Conditions Of Registration Of Certain Intermediaries) (Amendment) Regulations, 2016 w.e.f. 08-12-2016.

42 Omitted by the Securities and Exchange Board of India (Change In Conditions Of Registration Of Certain Intermediaries) (Amendment) Regulations, 2016 w.e.f. 08-12-2016. Prior to omission regulation 8A read as under:

“**Grant of certificate of permanent registration.**

(1) The debenture trustee who has been granted or deemed to have been granted a certificate of initial registration under regulation 8, may, three months before the expiry of the period of initial registration, make an application for grant of a certificate of permanent registration in Form A.

(2) The debenture trustee who has already been granted certificate of registration by the Board and has completed a period of five years, on the date of commencement of the Securities and Exchange Board of India (Debenture Trustees) (Amendment) Regulations, 2011, may, three months before the expiry of validity of certificate of registration or before, make an application for grant of a certificate of permanent registration in Form A.

(3) An application under sub-regulation (1) or sub-regulation (2) shall be accompanied by non-refundable application fee as specified in Schedule II of these regulations.

(4) The application for grant of a certificate of permanent registration shall be accompanied by details of the changes that have taken place in the information that was submitted to the Board while seeking initial registration or renewal, as the case may be, and a declaration stating that no changes other than those as mentioned in such details have taken place.

(5) The application for permanent registration made under sub-regulation (1) or (2) shall be dealt with in the same manner as if it were a fresh application for grant of a certificate of initial registration and the Board shall take a decision within three months from the date of receipt of all information.

(6) The Board, on being satisfied that the applicant is eligible, shall grant a certificate of permanent registration in Form B and shall send an intimation to the applicant.

(7) The grant of a certificate of permanent registration shall be subject to payment of fees specified in Schedule II of these regulations."

43 Omitted by the SEBI (Debenture Trustees) (Amendment) Regulations, 2011, w.e.f. 5-7-2011**.** Prior to its omission, it read as under:

"Renewal of certificate.

9(1) A debenture trustee may, if he so desires, make an application in Form A for renewal of certificate before three months of the expiry of the period of certificate.

44**[Conditions of registration.**

9A.(1) 45[Registration granted under regulation 8] shall be subject to the following conditions, namely :—

(a)where debenture trustee proposes 46[change in control], it shall obtain prior approval of the Board for continuing to act as such after the change;

47[(b) it shall pay the fees for registration, in the manner provided in these regulations;]

(c)it shall take adequate steps for redressal of grievances of the investors within one month of the date of the receipt of the complaint and keep the Board informed about the number, nature and other particulars of the complaints received and the manner in which such complaints have been redressed; (d) it shall maintain capital adequacy requirements specified in regulation 7A at all times during the period of the 48[***];

(e)it shall abide by the regulations made under the Act in respect of the activities carried on by it as a debenture trustee.

49[(f) it shall immediately intimate the Board, details of changes that have taken place in the information that was submitted, while seeking registration.]

(2) Nothing contained in clause (a) of sub-regulation (1) shall affect the obligation to obtain a fresh registration under section 12 of the Act in cases where it is applicable.

9B. 50**[***]**

43[(1A) An application for renewal made under sub-regulation (1) shall be accompanied by a non-refundable application fee as specified in Schedule II.]

(2) The application for renewal of certificate under sub-regulation (1) shall be dealt with in the same manner as if it were an application for grant of a certificate made under regulation 3."

44 Inserted by the SEBI (Debenture Trustees) (Amendment) Regulations, 2006, w.e.f. 7-9-2006**.**

45 Substituted for the words "Any45[initial registration] granted under regulation 8 or any [permanent registration granted under regulation 8A]" by the Securities and Exchange Board of India (Change In Conditions Of Registration Of Certain Intermediaries) (Amendment) Regulations, 2016 w.e.f. 08-12-2016. Prior to substitution the words "initial registration" and "permanent registration granted under regulation 8A" substituted the words "registration" and

"renewal granted under regulation 9" respectively by the SEBI (Debenture Trustees) (Amendment) Regulations, 2011, w.e.f. 5-7-2011.

46 Substituted by SEBI (Change in Conditions of Registration of Certain Intermediaries) (Amendment) Regulations, 2011, w.e.f. 13-4-2011 for the words "to change its status or constitution".

47 Substituted by the Securities and Exchange Board of India (Change In Conditions Of Registration Of Certain Intermediaries) (Amendment) Regulations, 2016 w.e.f. 08-12-2016. Prior to substitution, clause (b) read as under:

"(b) it shall pay the fees for 47[initial registration or permanent registration], as the case may be, in the manner provided in these regulations;"

Prior to this the words "initial registration or permanent registration" were substituted for the words "registration or renewal"by the SEBI (Debenture Trustees) (Amendment) Regulations, 2011, w.e.f. 5-7-2011

48 The words "initial or permanent registration" were omitted by the Securities and Exchange Board of India (Change In Conditions Of Registration Of Certain Intermediaries) (Amendment) Regulations, 2016 w.e.f. 08-12-2016. Prior to this the words "initial or permanent registration" were substituted for the words "certificate or renewal thereof" by the SEBI (Debenture Trustees) (Amendment) Regulations, 2011, w.e.f. 5-7-2011. 49 Inserted by the Securities and Exchange Board of India (Change In Conditions Of Registration Of Certain Intermediaries) (Amendment) Regulations, 2016 w.e.f. 08-12-2016.

50 Omitted by the SEBI (Debenture Trustees) (Amendment) Regulations, 2011, w.e.f. 5-7-2011.Prior to omission, it read as under:

"9B. **Time period for disposal of application and period of validity of certificate.**

Procedure where registration is not granted.

10.51[(1) Where an application for grant of a certificate of registration under regulation 3 does not fulfil the requirements set out in regulation 6, the Board shall reject the application after giving an opportunity of being heard.]

52[(2) The refusal to grant registration shall be communicated by the Board within thirty days of such refusal to the applicant stating therein the grounds on which the application has been rejected.]

(3) Any applicant may, being aggrieved by the decision of the Board under sub-regulation (2), apply within a period of thirty days from the date of receipt of such intimation, to the Board for, reconsideration of its decision.

(4) On receipt of the application made under sub-regulation (3), the Board shall reconsider its decision and communicate its findings thereon as soon as possible in writing to the applicant.

53[11. ***]

(1) The Board shall within three months of receipt of all information for considering the application for grant of registration made under regulation 8, or for its renewal made under regulation 9, take a decision thereon and send intimation to the applicant.

(2) The certificate of registration granted under regulation 8 and its renewal granted under regulation 9, shall be valid for a period of three years from the date of its issue."

51 Substituted by the Securities and Exchange Board of India (Change In Conditions Of Registration Of Certain Intermediaries) (Amendment) Regulations, 2016 w.e.f. 08-12-2016. Prior to substitution sub-regulation (1) read as under:

"(1) Where an application for grant of a certificate 51[of initial registration under regulation 3 or of permanent registration under regulation 8A] does not fulfil the requirements set out in regulation 6, the Board may reject the application, after giving a reasonable opportunity of being heard."

Prior to this the words "of initial registration under regulation 3 or of permanent registration under regulation 8A" were substituted by the SEBI (Debenture Trustees) (Amendment) Regulations, 2011, w.e.f. 5-7-2011 for the words "under regulation 3 or of renewal under regulation 9".

52 Omitted by the Securities and Exchange Board of India (Change In Conditions Of Registration Of Certain Intermediaries) (Amendment) Regulations, 2016 w.e.f. 08-12-2016. Prior to omission regulation 11 read as under:

"11. Effect of refusal to grant certificate of permanent registration.

The debenture trustee whose application for grant of certificate of permanent registration has been refused by the Board, on and from the date of the receipt of the communication, shall cease to carry on any activity as debenture trustee:

Provided that the Board may, in the interest of the investors of the securities market, permit to carry on activities undertaken prior to the receipt of the intimation of refusal, subject to such condition as the Board may specify."

Prior to this regulation 11 was substituted by the Securities and Exchange Board of India (Change In Conditions Of Registration Of Certain Intermediaries) (Amendment) Regulations, 2016 w.e.f. 08-12-2016. Prior to substitution sub-regulation (2) read as under:"The 52[refusal to grant initial or permanent registration, as the case may be] shall be communicated by the Board within thirty days of such refusal to the applicant stating therein the grounds on which the application has been rejected."

Prior to this the words "refusal to grant initial or permanent registration, as the case may be" were substituted by the SEBI (Debenture Trustees) (Amendment) Regulations, 2011, w.e.f. 5-7-2011 for the words "refusal to grant or renew the certificate".

53 Substituted by the SEBI (Debenture Trustees) (Amendment) Regulations, 2011, w.e.f. 5-7-2011. Prior to substitution, it read as:

"Effect of refusal to grant certificate or renew certificate.

11. Any debenture trustee whose application for grant or renewal of a certificate has been refused by the Board shall on and from the date of the receipt of the communication under sub-regulation (2) of regulation 10 cease to act as a debenture trustee."

Payment of fees, and the consequences of failure to pay fees.

12.54[(1) Every applicant eligible for grant of registration, shall pay the fees in such manner and within the period specified in Schedule II:]

Provided that Board may, on sufficient cause being shown, permit the debenture trustee to pay such fees at any time before the expiry of six months from the date on which such fees become due.

(2) Where the debenture trustee fails to pay the fees as provided in sub-regulation (1), the Board may suspend the certificate, whereupon the debenture trustee shall forthwith cease to act as a debenture trustee.

Chapter III
RESPONSIBILITIES AND OBLIGATIONS OF DEBENTURE TRUSTEES

Obligation before appointment as debenture trustees.

13. No debenture trustee who has been granted a certificate under regulation 8 shall act as such in respect of each issue of debenture unless—

55 [(a) he enters into a written agreement with the body corporate before the opening of the subscription list for issue of debentures;

(b) the agreement under clause (a) shall inter alia contain:

56[(i) an undertaking by the body corporate to comply with all regulations / provisions of Companies Act, 2013, guidelines of other regulatory authorities in respect of allotment of debentures till redemption;

(ii) the time limit within which the security for the debentures shall be created or the agreement shall be executed in accordance with the Companies Act, 2013 or provisions as prescribed by any regulatory authority as applicable.]]

Debenture Trustee not to act for an associate.

57**[13A. 58[**A person shall not be appointed as a debenture trustee, in case-

54 Substituted by the Securities and Exchange Board of India (Change In Conditions Of Registration Of Certain Intermediaries) (Amendment) Regulations, 2016 w.e.f. 08-12-2016. Prior to substitution sub-regulation (1) read as under:

"(1) Every applicant eligible for grant 54[of initial or permanent registration, as the case may be] shall pay the fees in such manner and within the period specified in Schedule II:"

Prior to this the words "of initial or permanent registration, as the case may be" were substituted by the SEBI (Debenture Trustees) (Amendment) Regulations, 2011, w.e.f. 5-7-2011 for the words "or renewal of a certificate".

55 Substituted for the following clauses (a) and (b) the SEBI (Debenture Trustees) (Second Amendment) Regulations, 2000, w.e.f 8-8-2000 :

"(a) he gives consent in writing to a body corporate to act as debenture trustee under trust deed for securing any issue of debentures by each such body corporate ;

(b) consent under clause (a) is given before the issue of debentures for subscription."

56 Substituted by the SEBI (Debenture Trustees) (Amendment) Regulations, 2017, w.e.f., 13-7-2017. Prior to the same, clauses (i) and (ii) read as follows:

"(i) that the debenture trustee has agreed to act as such under the trust deed for securing an issue of debentures for the body corporate;

(ii) the time limit within which the security for the debentures shall be created."

57 Substituted by the SEBI (Debenture Trustees) (Amendment) Regulations, 2003, w.e.f. 4-7-2003. Earlier regulation 13A was inserted by the SEBI (Debenture Trustees) (Second Amendment) Regulations, 2000, w.e.f. 8-8-2000. Prior to its substitution, regulation 13 A read as under :

"13 A. *Debenture Trustee not to act for an associate* – No debenture trustee shall act as such for any issue of debentures in case-

(a) the debenture trustee,-

(i) is an associate of the body corporate;

(ii) beneficially holds shares in the company;

(iii) is a promoter, director or key managerial personnel or any other officer or an employee of the company or its holding, subsidiary or associate company;

(iv) is beneficially entitled to moneys which are to be paid by the company otherwise than as remuneration payable to the debenture trustee; (v) is indebted to the company, or its subsidiary or its holding or associate company or a subsidiary of such holding company;

(vi) has furnished any guarantee in respect of the principal debts secured by the debentures or interest thereon;

(vii) has any pecuniary relationship with the company amounting to 2% or more of its gross turnover or total income or ₹50 lakh or such higher amount as may be prescribed, whichever is lower, during the two immediately preceding financial years or during the current financial year;

(viii) is relative of any promoter or any person who is in the employment of the company as a director or key managerial personnel;

(ix) is likely to have conflict of interest in any other manner:

Provided that this requirement shall not be applicable in respect of debentures issued:

(i) wherever there is guarantee by the state / central government for the debentures issued.]

(b) it has lent and the loan is not yet fully repaid or is proposing to lend money to the body corporate:

Provided that this requirement shall not be applicable in respect of debentures issued prior to the commencement of the Companies (Amendment) Act, 2000, where—

(i) recovery proceedings in respect of the assets charged against security has been initiated, or

(ii) the body corporate has been referred to Board for Industrial and Financial Reconstruction under the Sick Industrial Companies (Special Provisions) Act, 1985, prior to commencement of the Securities and Exchange Board of India (Debenture Trustees) (Amendment) Regulations, 2003.]

(a) it is an associate of the body corporate, or

(b) it has lent or is proposing to lend money to the body corporate :

Provided that in respect of debentures issued prior to the commencement of these regulations, the debenture trustee for such issue shall also comply with this regulation within two years from the commencement of these Regulations."

58 Regulation 13A and clause (a) thereunder substituted by the SEBI (Debenture Trustees) (Amendment) Regulations, 2017, w.e.f., 13-7-2017. Prior to such substitution, the provisions read as follows:

"No debenture trustee shall act as such for any issue of debentures in case—

(a) it is an associate of the body corporate, or"

Obligation of the debenture trustees.

14. 59[Every debenture trustee shall amongst other matters, accept the trust deeds which shall contain the matters as specified in section 71 of Companies Act, 2013 and Form No. SH.12 specified under the Companies (Share Capital and Debentures) Rules, 2014.]

Duties of the debenture trustees.

15. 60[(1) It shall be the duty of every debenture trustee to-

(a) satisfy itself that the prospectus or letter of offer does not contain any matter which is inconsistent with the terms of the issue of debentures or with the trust deed;

59 Substituted by the SEBI (Debenture Trustees) (Amendment) Regulations, 2017, w.e.f., 13-7-2017. Prior to the same, regulation 14 read as follows:

"Every debenture trustee shall amongst other matters accept the trust deeds which contain the matters specified in Schedule IV to the regulations."

60 Substituted ibid. Prior to the same, the provision read as follows:

"(1) It shall be the duty of every debenture trustee to—

(a) call for periodical reports from the body corporate;

(b) [***]

(c) take possession of trust property in accordance with the provisions of the trust deed;

(ca) supervise the implementation of the conditions regarding creation of security for the debentures and debenture redemption reserve, wherever applicable;

(d)enforce security in the interest of the debenture holders;

(e)do such acts as are necessary in the event the security becomes enforceable;

(f) carry out such acts as are necessary for the protection of the debenture holders and to do all things necessary in order to resolve the grievances of the debenture holders;

(g)ascertain and satisfy itself that the—

(i)in case where the allotment letter has been issued and debenture certificate is to be issued after registration of charge, the debenture certificates have been despatched by the body corporate to the debenture holders within 30 days of the registration of the charge with the Registrar of Companies;]

(ii) debenture certificates have been despatched to the debenture holders in accordance with the provisions of the Companies Act;

(iii) interest warrants for interest due on the debentures have been despatched to the debenture holders on or before the due dates;

(iv) debenture holders have been paid the monies due to them on the date of redemption of the debentures;

(h)ensure on a continuous basis that the property charged to the debentures is available and adequate at all times to discharge the interest and principal amount payable in respect of the debentures and that such property is free from any other encumbrances save and except those which are specifically agreed to by the debenture trustee;]

(i) exercise due diligence to ensure compliance by the body corporate, with the provisions of the Companies Act, the listing agreement of the stock exchange or the trust deed;

(j) to take appropriate measures for protecting the interest of the debenture holders as soon as any breach of the trust deed or law comes to his notice;

(k) to ascertain that the debentures have been converted or redeemed in accordance with the provisions and conditions under which they are offered to the debenture holders;

(l) inform the Board immediately of any breach of trust deed or provision of any law;

(m) appoint a nominee director on the Board of the body corporate in the event of:

(i) two consecutive defaults in payment of interest to the debenture holders; or

(ii) default in creation of security for debentures; or

(iii) default in redemption of debentures;

(n) communicate to the debenture holders on half yearly basis the compliance of the terms of the issue by the body corporate, defaults, if any, in payment of interest or redemption of debentures and action taken therefor."

(b) satisfy itself that the covenants in the trust deed are not prejudicial to the interest of the debenture holders;

(c) call for periodical status/ performance reports from the issuer company within 7 days of the relevant board meeting or within 45 days of the respective quarter whichever is earlier;

(d) communicate promptly to the debenture holders defaults, if any, with regard to payment of interest or redemption of debentures and action taken by the trustee therefor;
(e) appoint a nominee director on the Board of the company in the event of:

(i) two consecutive defaults in payment of interest to the debenture holders; or

(ii) default in creation of security for debentures; or

(iii) default in redemption of debentures.

(f) ensure that the company does not commit any breach of the terms of issue of debentures or covenants of the trust deed and take such reasonable steps as may be necessary to remedy any such breach; (g) inform the debenture holders immediately of any breach of the terms of issue of debentures or covenants of the trust deed;
(h) ensure the implementation of the conditions regarding creation of security for the debentures, if any, and debenture redemption reserve; (i) ensure that the assets of the company issuing debentures and of the guarantors, if any, are sufficient to discharge the interest and principal amount at all times and that such assets are free from any other encumbrances except those which are specifically agreed to by the debenture holders;
(j) do such acts as are necessary in the event the security becomes enforceable;
(k) call for reports on the utilization of funds raised by the issue of debentures;
(l) take steps to convene a meeting of the holders of debentures as and when such meeting is required to be held;
(m) ensure that the debentures have been converted or redeemed in accordance with the terms of the issue of debentures;
(n) perform such acts as are necessary for the protection of the interest of the debenture holders and do all other acts as are necessary in order to resolve the grievances of the debenture holders;
(o) take possession of trust property in accordance with the provisions of the trust deed;
(p) to take appropriate measures for protecting the interest of the debenture holders as soon as any breach of the trust deed or law comes to his notice;
(q) ascertain and satisfy itself that,-

(i) in case where the allotment letter has been issued and debenture certificate is to be issued after registration of charge, the debenture certificates have been dispatched by the body corporate to the debenture holders within 30 days of the registration of the charge with the Registrar of Companies; (ii) debenture certificates have been dispatched to the debenture holders or debentures have been credited in the demat accounts of the debenture holders in accordance with the provisions of the Securities and Exchange Board of India (Debenture Trustee) Regulations 1993, Securities and Exchange Board of India (Issue and Listing of Debt Securities) Regulations 2008, Securities and Exchange Board of India (Listing Obligations and Disclosure Requirements) Regulations 2015 and any other regulations issued by the Board;

(iii) interest warrants for interest due on the debentures have been dispatched to the debenture holders on or before the due dates;

(iv) debenture holders have been paid the monies due to them on the date of redemption of the debentures;

(r) inform the Board immediately of any breach of trust deed or provision of any law, which comes to the knowledge of the trustee.

Explanation: The communication to the debenture holders by the debenture trustee as mentioned in these regulations may be made by electronic media, press-release and placing notice on its website;

(s) exercise due diligence to ensure compliance by the body corporate, with the provisions of the Companies Act, Securities and Exchange Board of India (Listing Obligations and Disclosure Requirement), Regulations, 2015, the listing agreement of the stock exchange or the trust deed or any other regulations issued by the Board pertaining to debt issue; (t) In case where listed debt securities are secured by way of receivables/ book debts it shall obtain the following,-

(i) On Quarterly basis-

(a) Certificate from the Director / Managing Director of the issuer company certifying the value of the book debts / receivables;

(b) Certificate from an independent chartered accountant giving the value of book debts / receivables.

(ii) On Yearly basis-

(a) Certificate from the statutory auditor giving the value of book debts / receivables.]

61[(1A) The debenture trustee shall:

(a) obtain reports from the lead bank regarding progress of the project;

(b) monitor utilisation of funds raised in the issue;

62[(c) obtain a certificate from the issuer's Statutory Auditor:

(i) in respect of utilisation of funds during the implementation period of the project; and

61 Inserted by the Amendment to the SEBI (Debenture Trustees) Regulations, 1993 made by Schedule XX to the SEBI (Issue of Capital and Disclosure Requirements) Regulations, 2009 w.e.f. 26-08-2009.

62 Substituted by the SEBI (Debenture Trustees) (Amendment) Regulations, 2017, w.e.f., 13-7-2017. Prior to the same, clause (c) read as follows:

"obtain a certificate from the issuer's auditors:

(i) in respect of utilisation of funds during the implementation period of the project; and

(ii) in the case of debentures issued for financing working capital, at the end of each accounting year."

(ii) in the case of debentures issued for financing working capital, at the end of each accounting year.]]

(2) A debenture trustee shall call or cause to be called by the body corporate a meeting of all the debenture holders on—

(a) a requisition in writing signed by at least one-tenth of the debenture holders in value for the time being outstanding;

(b) the happening of any event, which constitutes a default or which in the opinion of the debenture trustees affects the interest of the debenture holders:

63[Provided that a debenture trustee may seek the consent of debenture holders through e-voting, wherever applicable;

Provided further that the requirement to convene a meeting of all debenture holders in case of a default in payment obligation by the issuer, shall not be applicable in case of debentures issued by way of public issue.]

64[(3) No debenture trustee shall relinquish its assignments as debenture trustee in respect of the debenture issue of any body corporate, unless and until another debenture trustee is appointed in its place by the body corporate.

(4) A debenture trustee shall maintain the networth requirements as specified in these regulations on a continuous basis and shall inform the Board immediately in respect of any shortfall in the networth and in such a case it shall not be entitled to undertake new assignments until it restores the networth to the level of specified requirement within the time specified by the Board.

(5) A debenture trustee may inspect books of account, records, registers of the body corporate and the trust property to the extent necessary for discharging its obligations.]

Code of Conduct.

16. Every debenture trustee shall abide by the Code of Conduct as specified in Schedule III.

Maintenance of books of account, records, documents, etc.

17. 65[(1) Subject to the provisions of any law every debenture trustee shall keep and maintain proper books of account, records and documents, relating to the trusteeship functions for a period of not less than five financial years from the date of redemption of debentures.]

(2) Every debenture trustee shall intimate to the Board, the place where the books of account, records and documents are maintained.

66[**Appointment of compliance officer.**

63 Inserted by the Securities and Exchange Board of India (Debenture Trustees) (Amendment) Regulations, 2019 w.e.f. May 07, 2019

64 Inserted by the SEBI (Debenture Trustees) (Amendment) Regulations, 2003, w.e.f, 4-7-2003.

65 Substituted by the SEBI (Debenture Trustees) (Amendment) Regulations, 2017, w.e.f., 13-7-2017. Prior to the same, sub-regulation (1) read as follows:

"(1) Subject to the provisions of any law every debenture trustee shall keep and maintain proper books of account, records and documents, relating to the trusteeship functions for a period of not less than five financial years preceding the current financial year."

66 Inserted by the SEBI (Investment Advice by Intermediaries)(Amendment) Regulations, 2001, w.e.f. 29-5- 2001

17A. (1) Every debenture trustee shall appoint a compliance officer who shall be responsible for monitoring the compliance of the Act, rules and regulations, notifications, guidelines, instructions, etc., issued by the Board or the Central Government and for redressal of investors' grievances.

(2) The compliance officer shall immediately and independently report to the Board any non-compliance observed by him.]

67[(3) The compliance officer shall report any non-compliance, of the requirements specified in the listing agreement with respect to debenture issues and debenture holders, by the body corporate to the Board.]

68[(4) The Compliance Officer so appointed shall obtain certification in terms of the Securities and Exchange Board of India (Certification of Associated Persons in the Securities Markets) Regulations, 2007 or as may be specified by the Board.]

Information to the Board.

18. (1) Every debenture trustee shall as and when required by the Board submit the following information and documents, namely:—

(a) the number and nature of the grievances of the debenture holders received and resolved;

(b) copies of the trust deed;

(c) non-payment or delayed payment of interest to debenture holders, if any, in respect of each issue of debentures of a body corporate;

(d) details of despatch and transfer of debenture certificates giving therein the dates, mode,

etc.;

(e) any other particular or document which is relevant to debenture trustee.

(2) Where any information is called for under sub-regulation (1) it shall be the duty of the debenture trustees to furnish such information.

Chapter IV
INSPECTION AND DISCIPLINARY PROCEEDINGS

Board's right to inspect.

19. (1) Where it appears to the Board so to do, it may appoint one or more persons as inspecting authority to undertake the inspection of the books of account, other records and documents of the debenture trustee for any of the purposes specified in sub-regulation (2).

(2) The purposes referred to in sub-regulation (1) shall be as follows, namely:— (a) to ensure that the records and documents which are relevant to debenture trustees are being maintained in the manner required by the Board;

69["(b) that the provisions of the Companies Act, 2013, Circulars, rules and regulations are being complied with;]

(c) to ascertain as to whether there exist any circumstances which would render the debenture trustee ineligible for grant of registration or continuance thereof;

67 Inserted by the SEBI (Debenture Trustees) (Amendment) Regulations, 2003, w.e.f. 4-7-2003.

68 Inserted by the SEBI (Debenture Trustees) (Amendment) Regulations, 2017, w.e.f., 13-7-2017.

69 Substituted by the SEBI (Debenture Trustees) (Amendment) Regulations, 2017, w.e.f., 13-7-2017. Prior to the same, clause (b) read as follows:

"(b) that the provisions of the Companies Act, 1956, rules and regulations are being complied with;"

(d) to investigate into the complaints received from investors, other debenture trustees or any other person on any matter having a bearing on the activities of the debenture trustee; and

(e) to investigate suo moto in the interest of securities business or investors interest into the affairs of the debenture trustee.

Procedure for inspection.

20. (1) Before undertaking an inspection under regulation 19, the Board shall give a reasonable notice to the debenture trustee for that purpose.

(2) Notwithstanding anything contained in sub-regulation (1), where the Board is satisfied that in the interest of the investors or in public interest no such notice should be given, it may by an order in writing direct that the inspection of the affairs of the debenture trustee be taken up without such notice.

(3) On being empowered by the Board the inspecting authority shall undertake inspection and the debenture trustee against whom an inspection is being carried out shall be bound to discharge his obligations as provided under regulation 21.

Obligations of debenture trustee on inspection by the Board.

21. (1) It shall be the duty of every director, officer and employee of the debenture trustee who is being inspected, to produce to the inspecting authority such books and other documents in his custody or control and furnish him with the statements and information relating to the debenture trustee within such time as the inspecting authority may require.

(2) The debenture trustee shall allow the inspecting authority to have a reasonable access to the premises occupied by the debenture trustee or by any other person, on his behalf and also extend reasonable facility for examining any books, records, documents and computer data in the possession of the debenture trustee or any such other person on their behalf and also provide copies of documents or other materials which in the opinion of the inspecting authority, are relevant for the purposes of the inspection.

(3) The inspecting authority shall in the course of inspection, be entitled to examine or record statements of any officer, director or employee of the debenture trustee. (4) It shall be the duty of every director, officer or employee of the debenture trustee to give to the inspecting authority all assistance in connection with the inspection, which the debenture trustee may reasonably be expected to give.

Submission of report to the Board.

22. The inspecting authority shall, as soon as may be possible, submit an inspection report to the Board.

70[**Action on inspection or investigation report.**

23. The Board or the Chairman shall after consideration of inspection or investigation report take such action as the Board or Chairman may deem fit and appropriate including action under 71[Chapter V of the Securities and Exchange Board of India (Intermediaries) Regulations, 2008].]

70 Substituted by the SEBI (Procedure for Holding Enquiry by Enquiry Officer and Imposing Penalty) Regulations, 2002, w.e.f. 27-9-2002.

71 Substituted by the Securities and Exchange Board of India (Intermediaries) Regulations, 2008, w.e.f. 26-5-2008 for the words "the Securities and Exchange Board of India (Procedure for Holding Enquiry by Enquiry Officer and Imposing Penalty) Regulations, 2002."

Appointment of Auditor.

24. Notwithstanding anything contained above the Board may appoint a qualified auditor to investigate into the records of, or the affairs of, the debenture trustee: **Provided** that the auditor so appointed shall have the same powers of the inspecting authority as mentioned in regulation 19 and the obligation of the debenture trustee in regulation 21 shall be applicable to the investigation under this regulation.

Explanation: For the purposes of this regulation, the expression "qualified auditor" shall have the same meaning as given to it in section 226 of the Companies Act, 1956 (1 of 1956).

Chapter V
PROCEDURE FOR ACTION IN CASE OF DEFAULT

72[73[**Liability for action in case of default.**

25. (1) A Debenture Trustee which-

(a) fails to comply with any conditions subject to which certificate has been granted;

(b) contravenes any of the provisions of the Act or these regulations; (c) contravenes the provisions of the Companies Act or the rules made there under;

(d) fails to furnish any information relating to its activity as a Debenture Trustee as required by the Board;

(e) furnishes to the Board information which is false or misleading in any material particular;

(f) does not submit periodic returns or reports as required by the Board; (g) does not co-operate in any enquiry, inspection or investigation conducted by the Board;

(h) fails to resolve the complaints of investors or fails to give a satisfactory reply to the Board in this behalf;

shall be dealt with in the manner provided under the Securities and Exchange Board of India (Intermediaries) Regulations, 2008.

(2) Nothing contained in sub-regulation (1) shall prejudice the powers of the Board to issue directions or measures under sections 11, 11B, 11D, sub-section (3) of section 12 or section 24 or Chapter VIA of the Act or under any other law for the time being in force.]]

26. to **32.**74[***]

72 Substituted by the SEBI (Procedure for Holding Enquiry by Enquiry Officer and Imposing Penalty) Regulations, 2002, w.e.f. 27-9-2002.

73 Substituted by the SEBI (Debenture Trustees) (Amendment) Regulations, 2017, w.e.f., 13-7-2017. Prior to the same, regulation 25 read as follows:

"25.A debenture trustee who—

(a) fails to comply with any conditions subject to which certificate has been granted;

(b) contravenes any of the provisions of the Act, rules or regulations;

(c) contravenes the provisions of the Companies Act or the rules made thereunder, shall be dealt with in the manner provided under Chapter V of the Securities and Exchange Board of India (Intermediaries) Regulations, 2008."

74 Regulations 26 to 32 were omitted by the SEBI (Procedure for Holding Enquiry by Enquiry Officer and Imposing Penalty) Regulations, 2002, w.e.f. 27-9-2002. Earlier regulation 32 was amended by SEBI (Appeal to

Schedule I

Forms

75**[FORM A**

Securities and Exchange Board of India

(Debenture Trustees) Regulations, 1993

[76[Regulation 3]]

77[Application for Grant of Certificate of Registration as Debenture Trustee]

Name of Applicant and its status .....

(For status see regulation 7)

Name and Designation of Principal Officer …….

Designation.....

Telephone No. .....

E-mail.....

Instructions:—

1. Applicants must submit a completed application form together with supporting documents to the Securities and Exchange Board of India.

2. All columns of the application should be filled in.

3. Information which needs to be supplied in more detail may be written on separate sheets which should be attached to the application form.

4. Original copy of form duly signed should be

In case a column is not relevant then "not applicable" should be specified.

PART I

General Information

1. Applicant's details

1.1 Name of the applicant:

1.2 Address of the applicant:

Pin code: Telephone No.:

Securities Appellate Tribunal)(Amendment)Regulations, 2000, w.e.f. 28-3-2000. Prior to its omission, regulation 32 read as under :

"32. Any person aggrieved by an order of the Board made, on and after the commencement of the Securities Laws (Second Amendment) Act, 1999, (i.e., after 16th December 1999), under these regulations may prefer an appeal to Securities Appellate Tribunal having jurisdiction in the matter."

75 Substituted by the SEBI (Debenture Trustees) (Amendment) Regulations, 2000, w.e.f 17-2-2000.

76 Substituted for the words “Regulation 3/Regulation 8A” by the Securities and Exchange Board of India (Change In Conditions Of Registration Of Certain Intermediaries) (Amendment) Regulations, 2016 w.e.f. 08-12-2016. Prior to this the words “Regulation 3/Regulation 8A” were substituted by the SEBI (Debenture Trustees) (Amendment) Regulations, 2011, w.e.f. 5-7-2011 for the word and figure "Regulation 3".

77 Substituted for the words “Application for Grant of Certificate of Initial/ Permanent Registration as Debenture Trustee” by the Securities and Exchange Board of India (Change In Conditions Of Registration Of Certain Intermediaries) (Amendment) Regulations, 2016 w.e.f. 08-12-2016. Prior to this the words “Application for Grant of Certificate of Initial/ Permanent Registration as Debenture Trustee” were substituted by the SEBI (Debenture Trustees) (Amendment) Regulations, 2011, w.e.f. 5-7-2011 for the words "Application for Registration as Debenture Trustee".

Telex No.: Fax No.:

E-mail:

1.3 Address of the applicant for correspondence:

Pin code: Telephone No.:

Telex No: Fax No.:

E-mail:

Name of the Compliance Officer:

Designation: Telephone:

1.4 Address of branch offices (in India) of the applicant, if any:

1.5 Whether any other application under the Securities and Exchange Board of India Act, 1992, has been made for grant of certificate, if so, details thereof:

1.5(a) Whether the applicant or its Director/s or partner/s is a partner or proprietor or promoter/s or director/s in any of its associate/group company/concern or any company/concern which is also registered with SEBI under any of its Regulations, and if so, details thereof:

Name of the company/ concern	Category registered SEBI Regn. No.	Any warning given/penal action taken/investigation/enquiry initiated/pending

1.6 In case the applicant is a Bank or an NBFC, any warning/action taken by RBI.

2. Organisation structure:

2.1 Objects of the organisation of the applicant.

(Attach extracts from relevant documents like, charter/memorandum of association/articles of association, etc.) in support of objects of the organisation. **2.2** Date and place of incorporation/establishment of the organisation of the applicant.

Day Month Year Place

2.3 Organisation chart stating the functional responsibilities at various levels. **2.4** Particulars of all directors.

[Name, qualification, experience, date of appointment, other directorship, (Name & date of appointment), previous positions held.]

2.5 Number of employees (mention separately the employees in the debenture trusteeship activity).

2.6 Name and activities of associate companies/concerns.

Name/Address/Phone Nos./Type of activity/Ownership details/Nature and quantum of financial trading.

2.7 List of major shareholders (holding 5% or more voting rights) and percentage of their shareholdings.

3. Details of infrastructural facilities:

3.1 Office space (mention the extent of area and ownership details available). **3.2** Office equipment (mention the details of electronic office equipment, typewriters, telecommunication equipment, furniture and fixtures, other communication facilities, etc.)

(For point Nos. 3.1 and 3.2, please mention the infrastructure for debenture trustee activity separately)

4. Business plan (for three years)

(a) History, major achievements and present activity

5. Financial information:

5.1 Capital structure

Year prior to the Preceding year of current year	preceding year	Current year (Rs. in lakhs)

(a) Paid-up capital

(b) Free reserves (excluding revaluation reserves) (c) Total (a) + (b)

(d) Loans (details)

(e) Net profit:

(i)General

(ii)Specific

5.2 Deployment of resources

(a) Fixed assets

(b) Plant and machinery and office equipment

(c) Investments (Details should be given separately) (d) Others

6. Other information:

6.1 Name and address of the principal bankers

6.2 Name and Address of the auditors (internal, external and tax auditor, if any, as applicable).

6.3 Indicate involvement in any offence relating to economic offences (including those concerned with the securities market) in the last three years, if any.

6.4 Any significant awards or recognition, collective grievances against the services rendered by the applicant.

6.5 Any other information considered relevant to the nature of services rendered by the applicant.

PART II

7. Business information 7.1

Describe proposed activity.

7.2 Details of key legal personnel:

a. Name of the person b. Responsibility c. Experience

7.3 Existing/proposed facilities for redressal of investor grievances.

(Furnish number and type of complaints received, follow-up with the companies, average time taken in resolving the complaints and overall system of handling complaints).

7.4 Details of any personnel experience in the activity of debenture trusteeship.

8. Experience

8.1 Experience as debenture trustee

(Name of the body corporate, on whose behalf the applicant has acted as debenture trustee, particulars of debenture issue, size of debenture issue, when trust deed is signed, remuneration/fee received.)

8.2 Details where applicant has resigned as debenture trustee or have discharged therefrom, give full details and reasons therefor.

8.3 In case of resignation or discharge as the case may be whether the applicant has vacated the office before the appointment of successor. If so, give reasons and full details.

8.4 Whether the applicant has ensured that security has been created in the stipulated time in respect of debentures it acted as debenture trustee.

8.5 Whether the applicant has taken steps like appointment of nominee directors in case of the debenture issue of any company.

Declaration

This declaration must be signed by principal officer/s

I/We hereby apply for grant of certificate of registration by the Board. I/We warrant that I/we will carry out my/our duties in accordance with the Act, Rules and Regulations.

I/We state that I/we have truthfully and fully answered the questions above and provided all the information which might reasonably be considered relevant for the purposes of my/our grant of certificate for registration and I/we will promptly notify the Board of any changes in the information during the period that my/our registration is being considered and if my/our registration is accepted, thereafter. I/We understand that misleading or attempting to mislead the Board shall render the applicant liable to disciplinary proceedings.

form is true, complete and correct.

"We hereby declare and undertake that—

(a) the applicant-company, its directors or Principal Officers is/or has not at any time been convicted for any offence involving moral turpitude or been found guilty of any economic offence (including those concerned with the securities market),

(b) no person directly or indirectly connected with the applicant has applied or been granted registration by the Securities and Exchange Board of India to act as Debenture Trustee."

For and on behalf of

..... Name of applicant

..... Name of applicant

Place: Place:

Date: Date:

78 [***]

78 The following was omitted by the Securities and Exchange Board of India (Change In Conditions Of Registration Of Certain Intermediaries) (Amendment) Regulations, 2016 w.e.f. 08-12-2016.

"**Additional information sheet: (in case of application for** 78**[permanent] registration)**

1. Whether the applicant has complied with the terms and conditions mentioned in the registration letter? 2. Whether the applicant has complied with the SEBI (Debenture Trustees) Rules and Regulations and the guidelines issued by SEBI from time to time.

3. Whether any associate/group company of the applicant is also registered with SEBI under any Regulations, and if so the following details are to be furnished:

Name of the company/ concern	SEBI Regn No.	Any warning given/penal action taken/investigation/enquiry initiated/pending

4-5. Whether any investigation/enquiry has been initiated/is pending against the applicant.

6. Whether the applicant has submitted all the quarterly reports.

7. Any warning given/penal action taken against the applicant.

8. Whether the applicant has paid the fees due to SEBI in the last 3 years. Give details of payment. 9. Details of public/rights issue for which the applicant acted as trustees in the last 3 years.

10. In case of any defaults, specifically state the action the applicant has taken to protect the interest of the debenture holders and whether penal interest has been paid to the debenture holders.

(a) List of debenture issues for which the applicant was acting as debenture trustees under earlier registration where defaults by the issuers in terms of delays/non-payment of interest/principal have occurred.

Company	Details of issue	Details of defaults

11. Whether the applicant has obtained auditors certificate for end-use of funds for all public/rights issues.

FORM B

Securities and Exchange Board of India (Debenture Trustees)
Regulations, 1993
[79[Regulation 8]]
80[Certificate of Registration]

I. In exercise of the powers conferred by sub-section (1) of section 12 of the Securities and Exchange Board of India Act, 1992, read with the Rules and Regulations made thereunder for the debenture trustee, the Board hereby grants a certificate of registration to.....as a debenture trustee, subject to the conditions in the Rules and in accordance with the Regulations.

II. Registration Code for the debenture trustee is.....

81[III. This certificate of registration shall be valid unless it is suspended or cancelled by the Board.]

By Order
Place
Date For and on behalf of
Securities and Exchange Board of India. Authorised
Signatory.

SCHEDULE II
Securities and Exchange Board of India (Debenture Trustees) Regulations, 1993
[Regulation 12]

12. Investor grievances relating to the debentures of companies for which the applicant acted as debenture trustees."

Also, the word "permanent" was substituted by the SEBI (Debenture Trustees) (Amendment) Regulations, 2011, w.e.f. 5-7-2011 for the words "renewal of".

79 The words "/Regulation 8 A" was omitted by the Securities and Exchange Board of India (Change In Conditions Of Registration Of Certain Intermediaries) (Amendment) Regulations, 2016 w.e.f. 08-12-2016. Prior to this the words "/Regulation 8 A" was substituted by the SEBI (Debenture Trustees) (Amendment) Regulations, 2011, w.e.f. 5-7-2011 for the word and figure "Regulation 8"

80 Substituted for the words "Certificate of Initial / Permanent Registration" by the Securities and Exchange Board of India (Change In Conditions Of Registration Of Certain Intermediaries) (Amendment) Regulations, 2016 w.e.f. 08-12-2016.

Prior to this the words "" were substituted by the SEBI (Debenture Trustees) (Amendment) Regulations, 2011, w.e.f. 5-7-2011 for the words "Certificate of Registration".

81 Substituted by the Securities and Exchange Board of India (Change In Conditions Of Registration Of Certain Intermediaries) (Amendment) Regulations, 2016 w.e.f. 08-12-2016. Prior to substitution paragraph III read as under:
"III. This certificate of registration shall be valid from ….. to …. / for permanent, unless suspended or cancelled by the Board."

Prior to this paragraph III was substituted by the SEBI (Debenture Trustees) (Amendment) Regulations, 2011, w.e.f. 5-7-2011 for the words and symbols "Unless renewed, the certificate of registration is valid from....to...."

FEES

82[1. Every debenture trustee shall pay fees of 83[twenty lakh] rupees at the time of grant of certificate of 84[***] registration.

1.A 85[***]

2. 86[A debenture trustee who has been granted a certificate of registration, to keep its registration in force, shall pay fee of nine lakh rupees every three years from the sixth year, from the date of grant of certificate of registration or from the date of grant of certificate of initial registration granted prior to the commencement of the Securities and Exchange Board of India (Change in Conditions of Registration of Certain Intermediaries) (Amendment) Regulations, 2016, as the case may be.]

3. (a) The fee referred to in paragraph 1 shall be paid by the debenture trustees within fifteen days from the date of receipt of intimation from the Board under regulation 8.

(aa) 87[***]

88[(b) The fee referred to in paragraph 2 shall be paid by the Debenture Trustee three months before expiry of the block for which fee has been paid.]

82 Substituted by the SEBI (Debenture Trustees) (Amendment) Regulations, 2011, w.e.f. 5-7-2011.Prior to substitution it read as under:
"1. Every debenture trustee shall pay a sum of ten lakh rupees as registration fees at the time of the grant of certificate by the Board.

2. Every debenture trustee to keep registration in force shall pay renewal fee of five lakh rupees every three years from the fourth year from the date of initial registration."

83 Substituted by the SEBI (Payment of Fees) (Amendment) Regulations, 2014, w.e.f.23-5-2014 for the words "thirteen lakh thirty three thousand and three hundred".

84 The word "initial" was omitted by the Securities and Exchange Board of India (Change In Conditions Of Registration Of Certain Intermediaries) (Amendment) Regulations, 2016 w.e.f. 08-12-2016.

85 Omitted by the Securities and Exchange Board of India (Change In Conditions Of Registration Of Certain Intermediaries) (Amendment) Regulations, 2016 w.e.f. 08-12-2016. Prior to omission paragraph 1A read as under:
"1A. A debenture trustee referred to under sub-regulation (3) of regulation 8, shall pay fees for the remaining period of two years on pro rata basis to the fee prescribed under paragraph 2."

86 Substituted by the Securities and Exchange Board of India (Change In Conditions Of Registration Of Certain Intermediaries) (Amendment) Regulations, 2016 w.e.f. 08-12-2016. Prior to substitution paragraph 2 read as under:
"2. A debenture trustee who has been granted a certificate of permanent registration, to keep its registration in force, shall pay fees of 86[nine] lakh rupees every three years from the sixth year from the date of grant of certificate of initial registration, or from completion of the period of renewed certificate of registration, as the case may be."
87 Omitted by the Securities and Exchange Board of India (Change In Conditions Of Registration Of Certain Intermediaries) (Amendment) Regulations, 2016 w.e.f. 08-12-2016. Prior to omission paragraph 3(aa) read as under:
"(aa) The fees referred to in paragraph 1A shall be paid by the debenture trustee within a period of three months before completion of the period of three years from the date of grant of certificate of initial registration, or within a period of three months from the date of notification of these regulations, as the case may be." Prior to the above, paragraph 3 (aa) was inserted by the SEBI (Debenture Trustees) (Amendment) Regulations, 2011, w.e.f. 5-7-2011.
88 Substituted by the Securities and Exchange Board of India (Change In Conditions Of Registration Of Certain Intermediaries) (Amendment) Regulations, 2016 w.e.f. 08-12-2016. Prior to substitution paragraph 3(b) as substituted by the SEBI (Debenture Trustees) (Amendment) Regulations, 2011, w.e.f. 5-7-2011 read as under:

89[3A. The non-refundable fee payable along with an application for registration under sub-regulation (1A) of regulation 3 shall be a sum of fifty thousand rupees.]

4. The fees specified in paragraphs 90[1, 91[***] 2 and 3A]shall be payable by the Debenture Trustees 92[by way of direct credit in the bank account through NEFT/RTGS/IMPS or any other mode allowed by RBI or] by a demand draft in favour of "The Securities and Exchange Board of India" payable at Mumbai or at the respective regional office.]

93[SCHEDULE III

Securities and Exchange Board of India (Debenture Trustees) Regulations, 1993

[Regulation 16]

CODE OF CONDUCT

1. A Debenture Trustee shall make all efforts to protect the interest of debenture holders.

2. A Debenture Trustee shall maintain high standards of integrity, dignity and fairness in the conduct of its business.

3. A Debenture Trustee shall fulfill its obligations in a prompt, ethical and professional manner.

"(b) The fee referred to in paragraph 2 shall be paid by the debenture trustee, at the time of grant of permanent registration, within fifteen days from the date of receipt of intimation from the Board under sub-regulation (6) of regulation 8A and thereafter the fee shall be paid three months before expiry of the block for which fee has been paid."
Prior to the above, paragraph 3(b) was substituted by the SEBI (Debenture Trustees) (Amendment) Regulations, 2011, w.e.f. 5-7-2011.Prior to substitution it read as under:
"(b) The fee referred to in paragraph 2 shall be paid by the debenture trustee within fifteen days of receipt of intimation from the Board disposing of the application for renewal made under sub-regulation (1) of regulation 9."
89 Substituted by the Securities and Exchange Board of India (Change In Conditions Of Registration Of Certain Intermediaries) (Amendment) Regulations, 2016 w.e.f. 08-12-2016. Prior to substitution paragraph 3A read as under:
"3A. The non-refundable fee payable along with an application for registration under sub-regulation (1A) of regulation 3 or an application for 89[permanent registration under sub-regulation (1) or sub-regulation (2) of regulation 8A] shall be a sum of 89[fifty] thousand rupees.**"**
Prior to the above paragraph 3A was inserted by the SEBI (Debenture Trustees) (Amendment) Regulations, 2006, w.e.f. 7-9-2006.

Also, the words "permanent registration under sub-regulation (1) or sub-regulation (2) of regulation 8A" were substituted by the SEBI (Debenture Trustees) (Amendment) Regulations, 2011, w.e.f. 5-7-2011 for the words and figures "renewal of registration under sub-regulation (1A) of regulation 9"; and the words "fifty" were substituted by the SEBI (Payment of Fees) (Amendment) Regulations, 2014, w.e.f. 23-5-2014 for the words "twenty five"
90 Substituted by the SEBI (Debenture Trustees) (Amendment) Regulations, 2011, w.e.f. 5-7-2011 for the letters and figures "1, 2 and 3A" which was earlier substituted by the SEBI (Debenture Trustees) (Amendment) Regulations, 2006, w.e.f. 7-9-2006.
91 The words "1A" omitted by the Securities and Exchange Board of India (Change In Conditions Of Registration Of Certain Intermediaries) (Amendment) Regulations, 2016 w.e.f. 08-12-2016.
92 Inserted by the SEBI (Payment of Fees and Mode of Payment) (Amendment) Regulations, 2017, w.e.f. 6-3-2017.

93 Substituted by the SEBI (Debenture Trustees) (Amendment) Regulations, 2003, w.e.f 1-10-2003. Earlier, it was amended by the SEBI (Investment Advice by Intermediaries) (Amendment) Regulations, 2001, w.e.f. 29-5-2001.

4. A Debenture Trustee shall at all times exercise due diligence, ensure proper care and exercise independent professional judgment.

5. A Debenture Trustee shall take all reasonable steps to establish the true and full identity of each of its clients, and of each client's financial situation and maintain record of the same.

6. A Debenture Trustee shall ensure that any change in registration status/any penal action taken by Board or any material change in financial position which may adversely affect the interests of clients/debenture holders is promptly informed to the clients and any business remaining outstanding is transferred to another registered intermediary in accordance with any instructions of the affected clients.

7. A Debenture Trustee shall avoid conflict of interest and make adequate disclosure of its interest.

8. A Debenture Trustee shall not divulge to anybody either orally or in writing, directly or indirectly, any confidential information about its clients which has come to its knowledge, without taking prior permission of its clients, except where such disclosures are required to be made in compliance with any law for the time being in force.

9. A Debenture Trustee shall put in place a mechanism to resolve any conflict of interest situation that may arise in the conduct of its business or where any conflict of interest arises, shall take reasonable steps to resolve the same in an equitable manner.

10. A Debenture Trustee shall make appropriate disclosure to the client of its possible source or potential areas of conflict of duties and interest while acting as debenture trustee which would impair its ability to render fair, objective and unbiased services.

11. A Debenture Trustee shall not indulge in any unfair competition, which is likely to harm the interests of other trustees or debenture holders or is likely to place such other debenture trustees in a disadvantageous position while competing for or executing any assignment nor shall it wean away the clients of another trustee on assurance of lower fees.

12. A Debenture Trustee shall not discriminate among its clients, except and save on ethical and commercial considerations.

13. A Debenture Trustee shall share information available with it regarding client companies, with registered credit rating agencies.

14. A Debenture Trustee shall provide clients and debenture holders with adequate and appropriate information about its business, including contact details, services available to clients, and the identity and status of employees and others acting on its behalf with whom the client may have to contact.

15. A Debenture Trustee shall ensure that adequate disclosures are made to the debenture holders, in a comprehensible and timely manner so as to enable them to make a balanced and informed decision.

16. A Debenture Trustee shall endeavour to ensure that—

(a) inquiries from debenture holders are adequately dealt with;

(b) grievances of debenture holders are redressed in a timely and appropriate manner;

(c) where a complaint is not remedied promptly, the debenture holder is advised of any further steps which may be available to the debenture holder under the regulatory system.

17. A Debenture Trustee shall make reasonable efforts to avoid misrepresentation and ensure that the information provided to the debenture holders is not misleading.

18. A Debenture Trustee shall maintain required level of knowledge and competency and abide by the provisions of the Act, regulations and circulars and guidelines. The debenture trustee shall also comply with the award of the Ombudsman passed under the Securities and Exchange Board of India (Ombudsman) Regulations, 2003. **19.** A Debenture Trustee shall not make untrue

statement or suppress any material fact in any documents, reports, papers or information furnished to the Board.

20. A Debenture Trustee or any of its directors, partners or manager having the management of the whole or substantially the whole of affairs of the business, shall not either through its account or their respective accounts or through their associates or family members, relatives or friends indulge in any insider trading.

21. A Debenture Trustee shall ensure that the Board is promptly informed about any action, legal proceeding, etc., initiated against it in respect of any material breach or non-compliance by it, of any law, rules, regulations, directions of the Board or of any other regulatory body.

22. (a) A Debenture Trustee or any of his employees shall not render, directly or indirectly, any investment advice about any security in the publicly accessible media, whether real-time or non-real-time unless a disclosure of his interest including long or short position in the said security has been made, while rendering such advice. (b) In case, an employee of the Debenture Trustee is rendering such advice, the debenture trustee shall ensure that he discloses his interest, the interest of his dependent family members and that of the employer, including their long or short position in the said security, while rendering such advice.

23. A Debenture Trustee shall ensure that any person it employs or appoints to conduct business is fit and proper and otherwise qualified to act in the capacity so employed or appointed (including having relevant professional training or experience).

24. A Debenture Trustee shall ensure that it has adequate resources to supervise diligently and does supervise diligently persons employed or appointed by it to conduct business on its behalf.

25. A Debenture Trustee shall have internal control procedures and financial and operational capabilities which can be reasonably expected to protect its operations, its clients, debenture holders and other registered entities from financial loss arising from theft, fraud, and other dishonest acts, professional misconduct or omissions. **26.** A Debenture Trustee shall be responsible for the acts or omissions of its employees and agents in respect to the conduct of its business.

27. A Debenture Trustee shall provide adequate freedom and powers to its compliance officer for the effective discharge of its duties.

28. A Debenture Trustee shall ensure that the senior management, particularly decision makers have access to all relevant information about the business on a timely basis.

29. A Debenture Trustee shall ensure that good corporate policies and corporate governance is in place.

30. A Debenture Trustee shall develop its own internal code of conduct for governing its internal operations and laying down its standards of appropriate conduct for its employees and officers in the carrying out of their duties. Such a code may extend to the maintenance of professional excellence and standards, integrity, confidentiality, objectivity, avoidance of conflict of interests, disclosure of shareholdings and interests, etc.

31. A Debenture Trustee shall not be party to— (i) creation of false market;

(ii) price rigging or manipulation;

(iii) passing of unpublished price sensitive information in respect of securities which are listed and proposed to be listed in any stock exchange to any person or intermediary.]

94[95[Schedule IV]

94 Schedule IV omitted by the SEBI (Debenture Trustees) (Amendment) Regulations, 2017, w.e.f., 13-7-2017. Prior to its omission, the Schedule read as follows:

Schedule IV

Securities and Exchange Board of India (Debenture Trustees)

Regulations, 1993

[Regulation 14]

CONTENTS OF TRUST DEED

Every debenture trustee shall ensure that the trust deed executed between a body corporate and debenture trustee shall amongst other things provide for the following matters namely: —

Preamble

1. *This section shall inter alia state the rights of the debenture holders and the manner in which these rights are vested in the trustee.*

Description of instruments

2. *This section shall inter alia state the purpose of raising finance through debenture issue, description of debentures as regards amount, tenure, interest/coupon rate, periodicity of payment, period for redemption, options available, terms of conversion/redemption of the debentures in terms of the issue to the debenture holders, debt equity ratio and debt service coverage ratio, if applicable.*

Details of Charged Securities (Existing or future)

3. *This section shall inter alia state the details regarding the following:*

i. Nature of charge, examination of title.

ii. Rank of charge of assets viz. first, second, pari passu, residual etc.

iii. Charging of future assets.

iv. Time limit within which the future security for the issue of debentures shall be created as specified in SEBI (Disclosure and Investor Protection) Guidelines, 2000.

v. Enforceability of securities, events under which security becomes enforceable.

vi. Obligation of company not to create further charge or encumbrance of the trust property without prior approval of the trustee.

vii. Minimum security cover required.

viii. Provision for subsequent valuation.

ix. Circumstances when the security will become enforceable.

x. Method and mode of preservation of assets charged as security for debenture holders.

xi. Circumstances specifying when the security may be disposed of or leased out with the approval of trustees.

xii. Procedure for allowing inspection of charged assets, books of account, by debenture trustee or any person or persons authorised by it.

Events of defaults

4. *This section shall clearly define the event of default which if occurs shall invite the actions by debenture trustee. This section shall also contain the steps which shall be taken by debenture trustee in the event of defaults.*

Rights of debenture trustees

5. *This section shall inter alia provide that:*

i. Debenture trustee is entitled to inspect the registers of the company and to take copies and extracts thereof;

ii. Debenture trustee has a right to appoint a nominee director.

Obligations of body corporates

6. *This section shall inter alia state the following with respect to company's duties:*

1. to maintain Register of debenture holders with addresses with record of subsequent transfers and changes of ownership.

2. to keep proper books of account open for inspection by debenture trustee.

3. to furnish whatever required information to debenture trustee including copies of reports, balance sheets, profit and loss accounts etc.

4. to keep charged property/security adequately insured and in proper condition.

5. to permit debenture trustee to enter and inspect the state and condition of charged assets.

6. to pay all taxes, cesses, insurance premia with respect to charged property/security, on time.

7. to inform debenture trustee before declaring or distributing dividend.

8. to comply with all guidelines/directions issued by any Regulatory authority, with respect to the instant debenture issue.

9. to create debenture redemption reserve as per the SEBI (Disclosure and Investor Protection) Guidelines, 2000 and the provisions of Companies Act and submit an auditor's certificate to the trustee.

10. to convert the debentures into equity in accordance with the terms of the issue, if applicable.

11. to inform debenture trustee about any change in nature and conduct of business by company before such change.

12. to keep the debenture trustee informed of all orders, directions, notices, of court/Tribunal affecting or likely to affect the charged assets.

13. to inform debenture trustee of any major change in composition of its Board of Directors, which may amount to change in control as defined in SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 1997.

14. to submit any such information, as required by the debenture trustee.

15. fee or commission of debenture trustees.

16. obligation to inform debenture trustee about any change in nature and conduct of business by the body corporate before such change.

17. obligation of the body corporate to forward a quarterly report to debenture trustees containing the following particulars:

(i) updated list of the names and addresses of the debenture holders;

(ii) details of interest due but unpaid and reasons thereof;

(iii) the number and nature of grievances received from debenture holders and resolved by the body corporate;

(iv) a statement that the assets of the body corporate which are available by way of security are sufficient to discharge the claims of the debenture holders as and when they become due.

7. Miscellaneous

a. Procedure for appointment and removal of trustee including appointment of new trustees.

b. Provision that the debenture trustee shall not relinquish from its assignment unless another debenture trustee has been appointed.

c. Procedure to remove debenture trustee by debenture holders providing for removal on a resolution passed by at least 75% of the total debenture holders of a body corporate.

d. Provisions for redressal of grievances of debenture holders.

***Note:** The debenture trustee may incorporate additional clauses, provided that the additional clauses do not dilute or contravene the provisions of the above clauses."*

95 Substituted by the SEBI (Debenture Trustees) (Amendment) Regulations, 2003, w.e.f 4-7-2003. Earlier, it was amended by the SEBI (Debenture Trustees) (Second Amendment) Regulations, 2000, w.e.f. 8-8-2000.