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**TEST
SERIES**



SUGGESTED SOLUTION

CS PROFESSIONAL

Subject – Corporate Funding & Listing

Topic – Funding Chp-01 to 06

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Answer to Q1.A.

DISSENTING SHAREHOLDER-

“Dissenting Shareholders” mean those shareholders who have voted against the resolution for change in objects or variation in terms of a contract, referred to in the offer document of the issuer;

MANNER OF PROVIDING EXIT TO DISSENTING SHAREHOLDERS –

The notice proposing the passing of special resolution for changing the objects of the issue and varying the terms of contract, referred to in the prospectus shall also contain information about the exit offer to the dissenting shareholders.

1. In addition to the disclosures required under the provisions of section 102 of the Companies Act, 2013 read with rule 32 of the Companies (Incorporation) Rules, 2014 and rule 7 of the Companies (Prospectus and Allotment of Securities) Rules, 2014 and any other applicable law, a statement to the effect that the promoters or the shareholders having control shall provide an exit opportunity to the dissenting shareholders shall also be included in the explanatory statement to the notice for passing special resolution.
2. After passing of the special resolution, the issuer shall submit the voting results to the recognised stock exchange(s), in terms of the provisions of regulation 44(3) of SEBI (LODR) Regulations, 2015.
3. The issuer shall also submit the list of dissenting shareholders, as certified by its compliance officer, to the recognised stock exchange(s).
4. The promoters or shareholders in control, shall appoint a merchant banker registered with SEBI and finalize the exit offer price in accordance with these regulations.
5. The issuer shall intimate the recognised stock exchange(s) about the exit offer to dissenting shareholders and the price at which such offer is being given.
6. The recognised stock exchange(s) shall immediately on receipt of such intimation disseminate the same to public within one working day.
7. To ensure security for performance of their obligations, the promoters or shareholders having control, as applicable, shall create an escrow account which may be interest bearing and deposit the aggregate consideration in the account at least two working days prior to opening of the tendering period.
8. The tendering period shall start not later than seven working days from the passing of the special resolution and shall remain open for ten working days.
9. The dissenting shareholders who have tendered their shares in acceptance of the exit offer shall have the option to withdraw such acceptance till the date of closure of the tendering period.
10. The promoters or shareholders having control shall facilitate tendering of shares by the shareholders and settlement of the same through the recognised stock exchange mechanism as specified by SEBI for the purpose of takeover, buy-back and delisting.

11. The promoters or shareholders having control shall, within a period of ten working days from the last date of the tendering period, make payment of consideration to the dissenting shareholders who have accepted the exit offer.
12. Within a period of two working days from the payment of consideration, the issuer shall furnish to the recognised stock exchange(s), disclosures giving details of aggregate number of shares tendered, accepted, payment of consideration and the post-offer shareholding pattern of the issuer and a report by the merchant banker that the payment has been duly made to all the dissenting shareholders whose shares have been accepted in the exit offer.

(5 MARKS)

Answer to Q1.B.

SEBI vide its circular dated 18th January 2018 issued guidelines on participation by the strategic investors in InvIT's and REIT's.

This circular seeks to give clarifications on the participation by the 'strategic investors' in the public issue of the REITs and the InvITs.

'Strategic investor' means:

1. an infrastructure finance company registered with RBI as a NBFC ;
2. a Scheduled Commercial Bank;
3. an international multilateral financial institution;
4. a systemically important NBFC with RBI;
5. a foreign portfolio investors;

who invest either jointly or severally not less than 5 % of the total offer size of the InvIT or such amount as may be specified by SEBI with applicable provisions of the FEMA Act, 1999 and the rules or regulations or guidelines made thereunder.

(5 MARKS)

Answer to Q1.C.

- 1) A listed InvIT may make preferential issue of units to an institutional investor as defined in the InvIT regulations, if it satisfies the following conditions:
 - a) A resolution of the unitholders of the InvIT approving the preferential issue has been passed.
 - b) The InvIT is in compliance with the conditions for continuous listing and disclosure obligations under these regulations and circulars issued thereunder
 - c) The InvIT is in compliance with the minimum public unitholding requirements as stipulated under the InvIT Regulations.
 - d) No preferential issue of units by the InvIT has been made in the six months preceding the relevant date.
- 2) Preferential issue pursuant to the unitholders resolution referred above shall be completed within a period of twelve months from the date of passing of the resolution.
- 3) Allotment pursuant to preferential issue shall be completed within 12 days.
- 4) The units shall be issued only in dematerialized form.

- 5) The units to be issued in preferential issue shall be of same class or kind as the units issued in the initial offer by the InvIT. Further, such units have been listed on a recognised stock exchange, having nationwide trading terminal for a period of at least six months prior to the date of issuance of notice to its unitholders for convening the meeting to approve the preferential issue.
- 6) The minimum subscription and trading lot for the units to be issued in preferential issue shall be same as that for units issued in the initial offer by the InvIT.
- 7) The units in a preferential issue shall be offered and allotted to a minimum of two investors and maximum of 1000 investors in a financial year.
- 8) Relevant date for the purpose of preferential issue shall mean the date of the meeting in which the board of directors of the investment manager of the InvIT or the committee of directors duly authorised by the board of directors of the investment manager of the InvIT decides to open the proposed issue.

(5 MARKS)

Answer to Q1.D.

- (1) Angel funds shall invest in venture capital undertakings which: a. complies with the criteria regarding the age of the venture capital undertaking/startup issued by the Department of Industrial Policy and Promotion under the Ministry of Commerce and Industry, Government of India vide notification no. G.S.R. 180(E) dated February 17, 2016 or such other policy made in this regard which may be in force b. have a turnover of less than twenty five crore rupees; c. are not promoted or sponsored by or related to an industrial group whose group turnover exceeds three hundred crore rupees.

For the purpose of this clause, "industrial group" shall include a group of body corporates with the same promoter(s)/promoter group, a parent company and its subsidiaries, a group of body corporates in which the same person/ group of persons exercise control, and a group of body corporates comprised of associates/subsidiaries/holding companies.:

For the purpose of this clause, "group turnover" shall mean combined total revenue of the industrial group. d. are not companies with family connection with any of the angel investors who are investing in the company.

- (2) Investment by an angel fund in any venture capital undertaking shall not be less than twenty five lakh rupees and shall not exceed ten crores rupees.
- (3) Investment by an angel fund in the venture capital undertaking shall be locked-in for a period of one year.
- (4) Angel Funds shall not invest in associates.
- (5) Angel funds shall not invest more than twenty-five per cent of the total investments under all its schemes in one venture capital undertaking, the compliance of which shall be ensured by the Angel Fund at the end of its tenure.

(6) An angel fund may also invest in the securities of companies incorporated outside India subject to such conditions or guidelines that may be stipulated or issued by the Reserve Bank of India and SEBI from time to time.

(5 MARKS)

Answer to Q2.A.

Eligibility requirements for an initial public offer [Regulation 6(1)]

An issuer shall be eligible to make an IPO only if:

- a) the issuer has net tangible assets of atleast Rs. 3 crores on a restated and consolidated basis, in each of the preceding three full years of (12 months each) of which not more than 50% is held in monetary assets; However, if more than 50% of the net tangible assets are held in monetary assets, the issuer has utilized or made firm commitments to utilize such excess monetary assets in its business or project. This limit of 50% shall not apply in case of IPO is made entirely through an offer for sale.
- b) the issuer has an average operating profit of at least Rs.15 crores, calculated on a restated and consolidated basis, during the three preceding years with operating profit in each of the three preceding years;
- c) the issuer has a networth of atleast Rs.1 crore in each of the preceding three full years, calculated on a restated and consolidated basis.
- d) in case the issuer has changed its name within the last one year, atleast 50% of the revenue calculated on a restated and consolidated basis, for the preceding one full year has been earned by it from the activity indicated by the new name.

(5 MARKS)

Answer to Q2.B.

1. The manager shall apply for delisting of units of the REIT to SEBI and the designated stock exchanges

if, –

- (a) the public holding falls below the specified limit as prescribed under REIT Regulations.
- (b) if there are no projects or assets remaining under the REIT for a period exceeding six months and REIT does not propose to invest in any project in future. The period may be extended by further six months, with the approval of unit holders in the manner as specified in REIT Regulations.
- (c) SEBI or the designated stock exchanges require such delisting for violation of the listing agreement or these regulations or the Act;
- (d) the sponsor(s) or trustee requests such delisting and such request has been approved by unit holders in accordance with the REIT Regulations.
- (e) The unit holders may also apply for such delisting in accordance with the provisions as prescribed for rights and meeting if unit holders.
- (f) SEBI or the designated stock exchanges require such delisting for violation of the listing agreement, these regulations or the Act or in the interest of the unit holders.

2. SEBI and the designated stock exchanges may consider such application for approval or rejection as may be appropriate in the interest of the unit holders.
3. SEBI, instead of requiring delisting of units, if it deems fit, may provide additional time to the REIT or parties to the REIT to comply with REIT Regulations.
4. SEBI may reject the application for delisting and take any other action, as it deems fit under REIT Regulations or the Act for violation of the listing agreement or REIT Regulations or the Act.
5. The procedure for delisting of units of REIT including provision of exit option to the unit holders shall be in accordance with the listing agreement and in accordance with procedure as may be specified by SEBI and by the designated stock exchanges from time to time.
6. SEBI may require the REIT to wind up and sell its assets in order to redeem units of the unit holders for the purpose of delisting of units and SEBI may through circulars or guidelines specify the manner of such winding up or sale.
7. After delisting of its units, the REIT shall surrender its certificate of registration to SEBI and shall no longer undertake activity of a REIT.

However, the REIT and parties to the REIT shall continue to be liable for all their acts of omissions and commissions with respect to activities of the REIT notwithstanding such surrender.

(5 MARKS)

Answer to Q2.C.

Applicability and Non-applicability of the SEBI (Issue of Sweat Equity) Regulations, 2002

Applicability	Listed companies which are issuing sweat equity shares are required to comply with SEBI (Issue of Sweat Equity) Regulations, 2002.
Non-Applicability	These regulations shall not apply to an unlisted company. However, unlisted company coming out with initial public offering and seeking listing of its securities on the stock exchange, pursuant to issue of sweat equity shares, shall comply with the SEBI (ICDR) Regulations, 2018.

(5 MARKS)

Answer to Q2.D.

A Debt Security shall be considered as “Green or Green Debt Securities”, if the funds raised through issuance of the debt securities are to be utilised for project(s) and/or asset(s) falling under any of the following broad categories:

- a) Renewable and sustainable energy including wind, solar, bioenergy, other sources of energy which use clean technology etc.;
- b) Clean transportation including mass/public transportation etc.;
- c) Sustainable water management including clean and/or drinking water, water recycling etc.;

- d) Climate change adaptation;
- e) Energy efficiency including efficient and green buildings etc.;
- f) Sustainable waste management including recycling, waste to energy, efficient disposal of wastage etc.;
- g) Sustainable land use including sustainable forestry and agriculture, afforestation etc.;
- h) Biodiversity conservation;
- i) Any other category as may be specified by SEBI, from time to time.

(5 MARKS)

Answer to Q3.A.

- 1) It shall be mandatory for units of all InvITs to be listed on a recognized stock exchange having nationwide trading terminals, whether publicly issued or privately placed. However, this shall not apply if the initial offer does not satisfy the minimum subscription amount or the minimum number of subscribers as prescribed under the SEBI InvIT Regulations.
- 2) The listing of the units shall be in accordance with the listing agreement entered into between the InvIT and the designated stock exchanges.
- 3) In the event of non-receipt of listing permission from the stock exchange(s) or withdrawal of Observation Letter issued by SEBI, wherever applicable, the units shall not be eligible for listing and the InvIT shall be liable to refund the subscription monies, if any, to the respective allottees immediately alongwith interest at the rate of fifteen per cent per annum from the date of allotment.
- 4) The units of the InvIT listed in the designated stock exchanges shall be traded, cleared and settled in accordance with the bye-laws of designated stock exchanges and such conditions as may be specified by SEBI.
- 5) The InvIT shall redeem units only by way of a buyback or at the time of delisting of units.
- 6) The units shall remain listed on the designated Stock Exchanges unless delisted under the SEBI InvIT Regulations.
- 7) The minimum public holding for the units of the InvIT after listing shall be in accordance with the provisions of Issue and listing of units, failing which action may be taken as may be specified by SEBI and by the designated stock exchanges including delisting of units under these regulations.
- 8) The minimum number of unit holders in an InvIT other than the sponsor(s), its related parties and its associates ,
 - in case of privately placed InvIT, shall be five, each holding not more than 25% of the units of the InvIT.
 - forming part of public shall be twenty, each holding not more than 25% of the units of the InvIT, at all times post listing of the units, failing which action may be taken as may be specified by SEBI and by the designated stock exchanges including delisting of units under these regulations.
- 9) With respect to listing of privately placed units,

- its units shall be mandatorily listed on the designated stock exchange(s) within thirty working days from the date of allotment;
- trading lot for the purpose of trading of units on the designated stock exchange shall be rupees one crore. Apart from the above, if an InvIT invests not less than eighty per cent of the value of the InvIT assets, in completed and revenue generating assets, the trading lot for the purpose of trading of units on the designated stock exchange of such InvIT shall be rupees two crore;

10) With respect to listing of publicly offered units,

- Its units shall be mandatorily listed on the designated stock exchange(s) within 12 working days from the date of closure of the initial public offer. This shall not apply if the initial public offer does not satisfy the minimum subscription amount or the minimum number of subscribers as prescribed under the SEBI InvIT Regulations.
- Trading lot for the purpose of trading of units on the designated stock exchange shall be 100 units.

11) Any person other than the sponsor(s) holding units of the InvIT prior to initial offer shall hold the units for a period of not less than one year from the date of listing of the units.

12) SEBI and designated stock exchanges may specify any other requirements pertaining to listing and trading of units of the InvIT by issuance of guidelines or circulars.

(5 MARKS)

Answer to Q3.B.

Private equity is a type of equity (finance) and one of the asset classes that are not publicly traded on a stock exchange. Private equity is essentially a way to invest in some assets that isn't publicly traded, or to invest in a publicly traded asset with the intention of taking it private. Unlike stocks, mutual funds, and bonds, private equity funds usually invest in more illiquid assets, i.e. companies. By purchasing companies, the firms gain access to those assets and revenue sources of the company, which can lead to very high returns on investments.

Another feature of private equity transactions is their extensive use of debt in the form of high-yield bonds. By using debt to finance acquisitions, private equity firms can substantially increase their financial returns.

Private equity consists of investors and funds that make investments directly into private companies or conduct buyouts of public companies that result in a delisting of public equity. Capital for private equity is raised from retail and institutional investors, and can be used to fund new technologies, expand working capital within an owned company, make acquisitions, or to strengthen a balance sheet. The major of private equity consists of institutional investors and accredited investors who can commit large sums of money for long periods of time.

Private equity investments often demand long holding periods to allow for a turnaround of a distressed company or a liquidity event such as IPO or sale to a public company. Generally, the private equity fund raise money from investors like Angel investors, Institutions with

diversified investment portfolio like – pension funds, insurance companies, banks, funds of funds etc.

Types of Private Equity Private equity investments can be divided into the following categories:

Leveraged Buyout (LBO): This refers to a strategy of making equity investments as part of a transaction in which a company, business unit or business assets is acquired from the current shareholders typically with the use of financial leverage. The companies involved in these type of transactions that are typically more mature and generate operating cash flows.

Venture Capital: It is a broad sub-category of private equity that refers to equity investments made, typically in less mature companies, for the launch, early development, or expansion of a business.

Growth Capital: This refers to equity investments, mostly minority investments, in the companies that are looking for capital to expand or restructure operations, enter new markets or finance a major acquisition without a change of control of the business.

(5 MARKS)

Answer to Q3.C.

Procedure for issuing ESOP by a Listed Company

- 1) Hold a Board Meeting to consider and approve ESOP and formation of Compensation Committee;
- 2) Compensation committee shall plan draft the scheme of ESOP;
- 3) Hold Board meeting to adopt the final scheme, appoint the Merchant banker and approve the notice of the General meeting for shareholders' approval;
- 4) Hold General Meeting for approval of shareholders;
- 5) Make an application to the stock exchange for obtaining in-principal approval of the stock exchange;
- 6) Issue of letter of grant of option to the eligible employees along with the letter of acceptance of option;
- 7) On receipt of letter of acceptance of option along with upfront payment (if any), from the employee issue the option certificates;
- 8) After expiry of vesting period, not less than one year the options shall vest in the employee.
- 9) At that time, the Company shall issue a letter of vesting along with the letter of exercise of options;
- 10) Receipt to letter of exercise from the employee;
- 11) Hold a Board Meeting at the suitable Interval during the exercise period for allotment of shares on options exercised by the optioness;
- 12) Dispatch of letter of allotment along with the share certificates or credit the shares so allotted with the Depositories;
- 13) Make an application to the Stock exchange for listing of the Shares so allotted; and
- 14) Receipt of Listing of the shares from the Stock exchange.

(5 MARKS)

Answer to Q3.D.

“Private placement” means an offer or invitation to subscribe to the debt securities in terms of sub-section (1) (b) of section 23 of the Companies Act, 2013.

SEBI has allowed issue of debt securities through private placement under the provisions of SEBI (Issue and Listing of Debt Securities) Regulations, 2008. This is a faster way for a company to raise capital.

Conditions for listing of debt securities issued on private placement basis [Regulation 20] :

- An issuer may list its debt securities issued on private placement basis on a recognized stock exchange subject to the following conditions:
 - a) the issuer has issued such debt securities in compliance with the provisions of the Companies Act, 2013, rules prescribed thereunder and other applicable laws;
 - b) credit rating has been obtained in respect of such debt securities from at least one credit rating agency registered with SEBI;
 - c) the debt securities proposed to be listed are in dematerialized form ;
 - d) the disclosures as provided in regulation 21 have been made.
 - e) where the application is made to more than one recognized stock exchange, the issuer shall choose one of them as the designated stock exchange.
- The issuer shall comply with conditions of listing of such debt securities as specified in the Listing Agreement with the stock exchange where such debt securities are sought to be listed.
- The designated stock exchange shall collect a regulatory fee as specified in Schedule V from the issuer at the time of listing of debt securities issued on private placement basis.

(5 MARKS)