<u>Consultation Paper on Review of SEBI (Settlement Proceedings) Regulations, 2018</u>

<u>Objective</u>:

1. The objective of this consultation paper is to seek comments/views/ suggestions from the general public and stakeholders on the changes proposed in the existing settlement mechanism and on the Securities and Exchange Board of India (Settlement of Proceedings) Regulations, 2026 ("**Settlement Regulations, 2026**").

<u>Background</u>:

2. The mechanism which witnessed its commencement by way of a circular dated April 20, 2007, has come a long way over the period. During this journey, settlement framework got statutory recognition by way of amendments made in the Securities and Exchange Board of India Act, 1992, Securities Contracts (Regulation) Act, 1956 and Depositories Act, 1996, through Securities Laws (Amendment) Ordinance, 2013. This ultimately resulted into making of Securities Laws (Amendment) Act, 2014, on August 25, 2014. Section 15JB of the Securities and Exchange Board of India Act, 1992, section 23JA of the Securities Contracts (Regulation) Act, 1956 and section 19-IA of the Depositories Act, 1996, as inserted by the aforesaid amendments, specifically empowered SEBI to frame regulation for settlement of administrative and civil proceedings. First regulation on SEBI's settlement process came to be notified on January 09, 2014 as SEBI (Settlement of Administrative and Civil Proceedings) Regulations, 2014 with Securities Laws (Amendment) Act, 2014 giving it a retrospective effect from April 20, 2007. Thereafter, Settlement Regulations, 2018 were notified on November 30, 2018 which came into force from January 01, 2019. Settlement Regulations, 2018 replaced SEBI (Settlement of Administrative and Civil Proceedings) Regulations, 2014.

3. In order to reduce litigation and provide alternative mode of resolution thereby providing clarity and ease of understanding of regulations, SEBI has

undertaken the review of existing settlement mechanism. As a part of this initiative, SEBI held meetings with the stakeholders to understand their concerns/comments/views/suggestions on the existing framework providing for settlement of enforcement proceedings.

4. SEBI has also conducted a study of settlement applications filed in the last two years where settlement could not be reached and subsequently resulted in imposition of penalty. While conducting this study, efforts have been made to have cases which were proximate to the outcome of the enforcement proceedings and for the said purpose, outliers were left out. The study showed that settlement amounts proposed and not accepted in such matters were average 8 times higher than the penalty amount ultimately came to be imposed in such cases.

5. As stated above, the data of cases rejected/withdrawn in settlement (after excluding outliers) was tested and it has been found that on an average settlement calculated in these cases was about 8 times of penalties finally imposed in such cases. If the above proposals are approved, this would come down to 4 times which appears to be more reasonable. It has deterrent value against violation/fraud and is also not too high to deter applicants to opt for it. The above proposals are justified in the light of generally accepted principal that settlement produces faster, more practical and economically sound results than prolonged litigation. Hence, it should be simpler, less discretionary and easy to implement. Indian Courts have repeatedly emphasised the importance of settlement, especially in civil and commercial disputes. In ***Afcons Infrastructure Ltd. Vs. Cherian Varkey Construction Co. P. Ltd. (2010) 8 SCC 24***, Hon'ble Supreme Court observed that the courts should refer the appropriate matters to Alternative Dispute Resolution (ADR) mechanism under Section 89 of Code of Civil Procedure, 1908 (CPC). In ***Salem Advocate Bar Association, Tamil Nadu Vs. Union of India (2005) 6 SCC 344***, Hon'ble Supreme Court while upholding constitutional validity of Section 89 of the CPC discussed the importance of mediation. These judgments reflect judicial policy favouring compromise wherever possible.

Hon'ble Supreme Court in ***Vikram Bakshi and Ors. v. Sonia Khosla (Dead) by Legal Representatives (2014) 15 SCC 80*** observed as under:

> ***"………..16.*** *According to us it would have been more appropriate for the parties to at least agree to resort to mediation as provided Under Section 89 Code of Civil Procedure and make an endeavour to find amicable solution of the dispute, agreeable to both the parties. One of the aims of mediation is to find an early resolution of the dispute. The sooner the dispute is resolved the better for all the parties concerned, in particular, and the society, in general. For parties, dispute not only strains the relationship but also destroys it. And, so far associety is concerned it affects its peace. So what is required is resolution of dispute at the earliest possible opportunity and via such a mechanism where the relationship between individual goes on in a healthy manner. Warren Burger, once said:*
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> > *"The obligation of the legal profession is ... to serve as healers of human conflict ... we should provide mechanisms that can produce an acceptable result in shortest possible time, with the least possible expense and with a minimum of stress on the participants. That is what justice is all about."*
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> *Mediation is one such mechanism which has been statutorily brought into place in our justice system. It is one of the methods of alternative dispute resolution and resolves the dispute in a way that is private, fast and economical. It is a process in which a neutral intervenor assists two or more negotiating parties to identify matters of concern, develop a better understanding of their situation, and based upon that improved understanding, develop mutually acceptable proposals to resolve those concerns. It embraces the philosophy of democratic decision-making [Alfin, et al., Mediation Theory & Practice (2nd Edn., 2006) Lexis Nexis].*
> *xxx xxx xxx*
> *19. This Bench is of firm opinion that mediation is a new dimension of access to justice. As it is one of the best forms, if not the best, of conflict resolution. The concept of Justice in mediation is advanced in the oeuvres of Professors Stulberg, Love, Hyman, and Menkel-Meadow (Self-Determination Theorists). Their definition of justice is drawn primarily from the exercise of party self determination. They are hopeful about the magic that can occur when people open up honestly and*

empathetically about their needs and fears in uninhibited private discussion. And, as thinkers, these jurists are optimistic that the magnanimity of the human spirit can conquer structural imbalances and resource constraints.

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19.3. Professor Carrie Menkel-Meadow presents a related point of view in making the case that settlement has a political and ethical economy of its own and writes:

> *Justice, it is often claimed, emerges only when lawyers and their clients argue over its meaning, and, in turn, some authoritative figure or body pronounces on its meaning, such as in the canonical cases of the late twentieth century ... For many years now, I have suggested that there are other components to the achievement of justice. Most notably, I refer to the process by which we seek justice (party participation and empowerment, consensus rather than compromise or command) and the particular types of outcomes that might help to achieve it (not binary win-lose solutions, but creative, pie-expanding or even shared solutions)."*

[Emphasis supplied]

The aforesaid observations have also been quoted with approval by Hon'ble Supreme Court in ***Patil Automation Private Limited and Ors. Vs. Rakheja Engineers Private Limited (MANU/SC/1004/2022)*** as under:

"……….57. On the one hand, the staunchest criticism against mediation has been that it is opposed to the fundamental principle of access to justice. It is in keeping with the traditional notions of the right of a person to have a dispute adjudicated by an impartial and a trained Judge. On the other hand, as noticed by this Court in Vikram Bakshi (supra), mediation offers a completely new approach to attaining the goal of justice. A win-win situation resulting from assigning a greater role to the parties themselves, with no doubt, a spirit of accommodation represents a better and what is more in the era of docket explosion, the only meaningful choice. The realisation has been growing over a period of time, that formal court rooms, long drawn-out proceedings, procedural wrangles, mounting and crippling costs, delay, which never wanes but only increases with the day that at least, in certain categories of cases, mediation can be the way

> out. It, undoubtedly, requires a complete change in the mindset. The change in approach, undoubtedly, can be achieved only if the litigants become aware of its benefits in comparison with the great disadvantage in waiting in the serpentine queue for the day of reckoning to arrive in a court of law. The role of the Bar is vital in taking mediation forward. With increase in population and a skewed Judge-population ratio and a huge spiralling of litigation in the courts, it is logical, just and imperative, to attempt and persevere in out of the box thinking. We can no longer afford to remain in the past. A clean break with the past is urgently needed. What was a mere writing on the wall as early as in the last decades of the previous century has become the harsh reality. It is important that the courts also adapt to the changing times. At least when the Parliament has decided to move ahead, it becomes the court's duty not to greet it with undue scepticism. It becomes necessary to fulfil the intention of the Parliament by realising the true role of judiciary…………..."

The above judgements relate to commercial disputes but the principle is equally applicable on other disputes with Govt/regulator as one of the party. Recently, Hon'ble Supreme Court in ***Vishal Tiwari Vs. Union of India & Ors. 2024 INSC 3*** observed as under:

> *"64. The Expert Committee was also directed to suggest measures to (i) strengthen the statutory and/or regulatory framework; and (ii) secure compliance with the existing framework for the protection of investors. Pursuant to its remit, the Committee in its report dated 6 May 2023 has made the following suggestions:*
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> *………………………………*
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> *d. Settlement Policy: SEBI must have a robust settlement policy and formulate objective criteria to regulate it. It must not be hesitant to enter settlements whereby financial injury commensurate with the alleged violation may be inflicted on the party;*
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> *…………………………………*
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> *…………………………………*
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> *66. The Expert Committee has made the above suggestions after applying its mind to the wealth of information collected from SEBI, market participants, invitees and from their own expertise. These suggestions merit favourable consideration with a positive intent. We direct the Government of India and SEBI to consider these suggestions and to take the benefit of the efforts put in by the Expert Committee.*
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> *………………………………………………"*

Further, in ***Shubham Singhal Vs. SEBI (Appeal No. 191 of 2022, Order dated 11.05.2022)*** and other connected appeals Hon'ble SAT observed as under:

> "……17. We are, thus, of the opinion that SEBI should reconsider and seriously give a thought in coming out with a fresh scheme under Clause 26 of the Settlement Regulations, 2018. Such scheme can be a onetime scheme for this class of person. The terms of settlement should be attractive so that it could attract the noticees / entities to come forward and settle the matter which will ameliorate the harassment of penalty proceedings to the noticees and at the same time would help to clear the backlog of these pending matters before various AOs….."

In ***B. N. Rathi Comtrade Private Limited Vs. SEBI (Appeal No. 282 of 2023, Order dated 12.12.2023)*** and other connected appeals Hon'ble SAT observed as under:

> "……….7. We are, thus, of the opinion that SEBI should consider and seriously give a thought in coming out with a scheme under Clause 26 of the Settlement Regulations. Such scheme can be a onetime scheme for this class of person. The terms of settlement should be attractive so that it could attract the noticees / entities / appellants to come forward and settle the matter and at the same time would help to clear the backlog of these pending matters before various quasi judicial authorities……….."

Hon'ble SAT in its order dated 16.01.2026, in the matter of ***Sukhraj Kaur Rajbans Vs. SEBI (Appeal No. 63 of 2025)*** and other connected appeals, observed as under:

> *"…21. It was submitted at the bar that about 1000 cases of illiquid stock option cases are pending. SEBI had launched settlement schemes earlier. Keeping in view the spirit of Section 89 of Code of Civil Procedure, 1908, it is desirable for SEBI to consider launching another settlement scheme which may result in disposal of large number of cases….."*

Thus, our judiciary has also favoured settlement, particularly, in Civil disputes. The changes proposed in the Consultation Paper are aimed to achieve such larger objective, without compromising on the need to create deterrence.

6. After taking the comments/views/suggestions of the stakeholders, a clause by clause review of SEBI (Settlement Proceedings) Regulations, 2018 ("**Settlement Regulations, 2018**"/ **"Existing Regulations"**) was undertaken by SEBI. Proposed changes, thus emerged on review of the Settlement Regulations, 2018 in the light of comments/views/suggestions of the stakeholders, were placed before the High Powered Advisory Committee ("**HPAC**").

7. HPAC gave its comments/suggestions on the changes proposed to existing settlement framework and the proposed SEBI (Settlement of Proceedings) Regulations, 2026 (**"Proposed Regulations"**). Comments/suggestions of HPAC were duly considered and wherever required have been duly incorporated in the proposed SEBI (Settlement of Proceedings) Regulations, 2026.

8. List of changes proposed to be made in the existing settlement framework, is annexed as **Annexure I** to this consultation paper.

9. Having regard to the changes proposed to the existing settlement framework, a proposed draft of SEBI (Settlement of Proceedings) Regulations, 2026 has been prepared. The drafting of proposed SEBI (Settlement of Proceedings) Regulations, 2026 is subject to change and modification pursuant to receipt of the public comments and internal review. The said draft is annexed as **Annexure II** to this consultation paper.

<u>Public Comments</u>:

10. In view of the aforesaid, comments/views/suggestions of general public and stakeholders is sought on the draft of SEBI (Settlement of Proceedings) Regulations, 2026. The comments/ suggestions on the draft Settlement Regulations, 2026 should be submitted latest by September 04, 2026, through the following link:

https://www.sebi.gov.in/sebiweb/publiccommentv2/PublicCommentAction.do?doPublicComments=yes

11. In case of any technical issue in submitting your comments through web based public comments form, you may write to settle-help@sebi.gov.in with the subject: "Public comments on Review of SEBI (Settlement Proceedings) Regulations, 2018”.

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Annexure I

1. **Rationalising calculation of settlement amount:**

A. Existing Formula: Existing Regulations provide for calculation of settlement amount on the basis of a mathematical formula which is as under:

Indicative Amount = [(A*B) + Legal Costs]

Where,

'A' = PCF + RAF

A: Multiplying Factor

PCF: Proceeding Conversion Factor

RAF: Regulatory Action Factor

RAF = X+Y

X= Value assigned to previous orders and regulatory direction issued

Y= Value assigned to order or direction passed or issued for which the application is filed

'B' = BV x BA

B: Applicable Benchmark Amount, is the amount attributable to every count of the alleged default in accordance with these guidelines;

BV: Aggregate of the base values given to the relevant factors including the aggravating and mitigating factors in respect of a particular charge.

BV= 1+ sum of applicable base values

BA: Base amount attributable to every count of the alleged default in accordance with these guidelines.

(a) The aforesaid formula is mathematical but also takes into account subjective factors. The factors which assess fact specific situation are: - Proceeding

Conversion Factor, Regulatory Action Factor, General Base Values, Special Base Values, Mitigating Factors, Aggravating Factors and Base Amounts.

(b) PCF is the factor which is applied depending on the stage of the enforcement proceedings for which settlement application is filed. Under PCF, each stage has been assigned a distinct value varying from 0.40 to 1.50. PCF values are assigned such that an application which is filed at earlier stage of the enforcement proceedings will attract a lower PCF and thus, a lower indicative amount than if the same application was filed at a later stage of the enforcement proceedings.

(c) RAF (**X+Y**) is the factor which is applied to take into account the past orders or directions issued against the applicant (**X**) and also any directions which are issued in the proceedings for which the settlement application is filed (**Y**). Under RAF, each type of order has been assigned a distinct value varying from 0.1 to 0.075. RAF increases the Indicative Amount taking into account the factor of previous regulatory orders and directions.

(d) Base Value is the factor which takes into account the facts and circumstances alleged in the enforcement proceedings and accordingly acts as a multiplier for the base amount. Base Values contain both kind of factors i.e. the ones which carry positive value, thus being against the applicant and the ones which carry negative values, thus being in favour of the applicant. The total of both the positive and negative values when added to 1, becomes base value (**BV**). The higher the sum of the base values, the higher will be the value of Indicative Amount.

(e) Base Amount (**BA**) is the amount assigned for different types of violations. It is used to arrive at the value of Benchmark Amount for each default. Base amount is taken as per the value mentioned in the tables provided under schedule II of the Settlement Regulations. However, wherever wrongful gain is made or loss is caused to investors, then the base amount is taken as higher of amount as per the tables or the wrongful gain made or loss causes to investors, by the applicant in the proceedings for which settlement is applied. Presently, there are five tables specifying base amounts for different kinds of defaults. Four tables provide base amounts for defaults relating to open offer, relating to disclosures under takeover regulations, relating to disclosures under Insider Trading Regulations and other disclosures not covered in Takeover and Insider Trading Regulations. Further, the last table provides for residuary base amount and covers all other violations not covered in the four tables.

(f) Base values (**BV**) multiplied with the Base Amount (**BA**) becomes applicable benchmark amount (**B**). It has been noted that settlement amount calculated as per the aforesaid formula and base amounts leads to settlement amounts which are significantly higher than the penalties imposed in such cases. There is a need to review this vast gap between penalties and the settlement amount to ensure that settlement amount is not too high so as to defeat the purpose of settlement. However, there is also a need to check that settlement amounts acts as sufficient deterrent and are on a premium compared to the outcome of the enforcement proceedings. On the basis of experience gained so far and on the basis of feedback received from the stakeholders, it is felt that there is a need for rationalisation of the calculation of settlement amount.

B. New proposed formula:

(i) **New proposed formula for calculation of Settlement Amount:** It has been proposed to introduce a new simpler formula for calculation of settlement amount and also to rationalise the settlement amounts. The formula is being proposed as under:

Settlement Amount (SA) = BA × (S + R + G + A - M)

(Refer to Regulation 10 of proposed Regulations)

(ii) In the above formula, '**BA**' is the base amount. As the name suggests, it is the amount which is minimum amount for a violation which is considered for calculating settlement amount for that violation. Under the Existing Regulation, as discussed in para 1A(e) above, there are five tables which specify base amounts for different kinds of defaults. However, wherever wrongful gain is made or loss is caused to investors, then the base amount is taken as higher of amount as per the tables or the wrongful gain made or loss causes to investors, by the applicant in the proceedings for which settlement is applied. Now Base amount is proposed to be linked to the penalty amounts provided under the SEBI Act, 1992, Securities Contracts (Regulation) Act, 1956 and Depositories Act, 1996 ("**the 3 Acts**) with suitable multiplying factor based on the type of the applicant. Base amount has been further discussed in detail in paragraph 1C(i) & (ii) below. ***(Refer to Regulation 11 of proposed Regulations)***

(iii) '**S'** is the stage of proceedings which is similar to the Proceeding Conversion Factor under the Existing Regulations. Under 'S' the values proposed to be assigned to different stages of proceedings range from 0.2 to 1.5 where,-

- 0.2 is for voluntary application,
- 0.4 is for prior to SCN,
- 0.6 is for post issue of SCN,
- 0.8 is for pending before designated member or pending proceedings under Section 15I(3) and corresponding provisions under SCRA and Depositories Act, 1996,
- 1 is for pending before the Tribunal, and
- 1.5 is for pending before the Supreme Court.

(Refer to Regulation 12 of proposed Regulations)

(iv) '**R'** is the regulatory action factor which is similar to 'X' component of RAF, under the Existing Regulations. Further, the values under 'R' have also been proposed to be changed which now ranges from 0 to 0.3 where,-

- 0 is for no prior orders passed,
- 0.10 is for "each administrative warning" issued,
- 0.20 is for "each settlement order passed", and

- 0.30 is for "each order passed in adjudication proceedings, proceedings for directions and disciplinary proceedings".

(Refer to Regulation 13 of proposed Regulations)

(v) '**G'** is similar to the special base values which are applied under the Existing Regulations. Values proposed to be assigned under G range from 0.25 to 1.5 where,-

- 0.25 is for open offer related violations,
- 0.5 is for offer document related violations,
- 0.5 is for violation of regulations 3 and 4 of SEBI (PIT) Regulations, 2015, and
- 1.5 is for violation of PFUTP Regulations, 2003

(Refer to Regulation 15 of proposed Regulations)

(vi) '**A'** is same as the aggravating factors under Settlement Regulations, 2018. However, in order to bring reasonableness, changes are proposed to be incorporated and consequently maximum 5 aggravating factors each having value of 0.20 are proposed. This has been discussed in detail in the later part of this consultation paper.

(Refer to Regulation 14 of proposed Regulations)

(vii) '**M'** is same as the mitigating factors under Settlement Regulations, 2018. However, instead of 3, in appropriate cases, maximum 5 mitigating factors each having value of 0.20 are proposed. This has been discussed in detail in later part of this consultation paper.

(Refer to Regulation 16 of proposed Regulations)

Further, if net total of S+R+G+A-M is less than 1 then same shall be treated as 1. So, in any event, value of S+R+G+A-M is proposed to not be less than 1.

C. Explanation to above proposed changes:

(i) **Base amounts:** Presently, for calculating indicative amount, base amount for different kinds of violation is given in the tables under Chapter VI of Schedule II of the Existing Regulations. However, for certain violations involving wrongful gain made and/or loss caused to investors, base amount is taken as the higher of the wrongful gain made and/or loss caused to investors or the amount given in the tables under Chapter VI of Schedule II of the Existing Regulations. In this regard, it is observed that table of base amounts is not comprehensive and provides for only limited number of violations. As a result, it has been experienced that substantial number of the violations fall under the Residuary (P) of Table X of the Existing Regulations, which leads to either higher base amounts or inadequate base amounts. Accordingly, it is being proposed to link the base amounts to the minimum penalty amounts provided under the 3 Acts, with suitable multipliers having regard to the type of the applicant seeking disposal of the enforcement proceedings for the alleged violation, such as Executive director/Promoter in control / KMP, Non-executive directors, Independent directors, Company, Pooled Investment Vehicles, Intermediary, MIIs and others. Base amount is to be calculated for each count of violation and then aggregated

Thus, **Base Amount = Minimum penalty specified for such violation × Multiplier (to be aggregated for each count of violations)**

Different multipliers proposed to be used in this regard are as under:

Type of Applicant	Multiplier
Independent Director	2
Natural Person	2.5
Non-executive Director	3
Executive Director/ Promoter in control/ Key Managerial Person	3.5

Company, intermediaries, Pooled Investment Vehicles and others	4
Market Infrastructure Institution	5.5

(Refer to Regulation 11 of proposed Regulations)

(ii) **Consideration of wrongful gains made in determining Base Amount:** Presently, in case where enforcement proceedings sought to be settled envisages disgorgement of wrongful gains, the applicant is required to remit both the indicative amount and also disgorge the wrongful gains. To calculate the indicative amount, the base amount is taken as the higher of the amount of wrongful gains or the amount given in the tables for base amount. Therefore, such wrongful gain is considered twice, first as a base amount for computation of indicative amount and second such wrongful gain is also required to be disgorged with interest as non-monetary terms. It leads to a double impact for the applicant seeking settlement of such proceedings and tends to discourage applicants to come forward for disposal of the enforcement proceedings under settlement. It is now being proposed that wrongful gains made or loss caused to investor shall not be considered while ascertaining the base amount for computing the settlement amount. However, it shall continue to be considered for disgorgement as non-monetary terms.

(Refer to Regulation 11 of proposed Regulations)

(iii) **Bringing clarity in calculating "counts of default"-** Base amount is proposed to be calculated for each count of defaults and then aggregated. Counts of default are ascertained on the basis of number of allegations made in the show cause notice or enquiry report, in case of pending proceedings. Sometimes, count of default is confused with number of provisions of the law which stand violated due to a particular act or omission. It is proposed to be clarified that base amount shall be considered for counts of defaults and not for the provisions of law alleged to be violated. Also, since it is being proposed to enable the filing of settlement applications at the stage of appeal before the SAT and the Supreme Court, it is also being proposed that while processing of such applications, only those counts of default shall be considered for base amount which has been upheld/ established in the SEBI Order or the SAT order, as the case may be. Further, it is being proposed that in case SEBI has preferred appeal before the Supreme Court against the relief provided by Hon'ble SAT, then only 50% of the Base Amount for each count of such defaults shall be considered. For the rest of the defaults, for which appeal has been preferred by applicant, 100% of the base amount shall be considered for the calculation of settlement amount.

(Refer to Regulation 11(2) and 11(6) of proposed Regulations)

(iv) **Calculation of Count of default when default is repetitive:** Presently, repetitive nature of default has not been clearly defined in the Existing Regulations. In order to bring in more clarity as to when a particular default shall not be considered as a default of repetitive nature, , it is being proposed to provide illustrations when an act or omission despite occurring number of times will not be treated as repetitive and shall be counted as only one default. These are, as under:

(a) In case of insider trading a person can trade one or more than one time on the basis of a specific unpublished price sensitive information (UPSI). In such case, each trading amounts to separate violation and thus, leading to number of counts of default depending on the number of times such person traded on the basis of UPSI. Whereas here underlying act is trading on the basis of UPSI which is specific. Accordingly, it is proposed to provide that insider trading arising out of a specific UPSI irrespective of number of trades executed by the applicant in one UPSI period with respect to that specific UPSI, shall be treated as one count of default.

(b) In case of insider trading, a person can communicate UPSI to many persons. In such case, each communication amounts to separate violation and thus, leading to number of counts of default depending on the number of times such person communicated the UPSI. Whereas here underlying act is communicating specific UPSI. Accordingly, it is proposed to provide that insider trading arising out of a communication of same UPSI by a person to number of persons, shall be treated as one count of default.

(c) In a case of front running of the trades of a particular order of a particular Big Client, there may be one trade or multiple trades on the basis of a specific material non-published information(MNPI). In such case, each trade amounts to a separate violation of front running and thus, leading to number of counts of default depending on the number of times such person traded on the basis of the specific MNPI. Whereas here underlying act is front running of a particular order of a particular Big Client. Accordingly, it is proposed that irrespective of number of front run trades of an applicant during the trading day executed by the applicant on the basis of specific MNPI relating to a particular order of a particular Big Client, the same shall be treated as one count of default.

(d) In a periodic disclosure case, where an entity is required to make periodic disclosures during a calendar or financial year, there may be instances where the entity fails to make more than one disclosure during the same calendar or a financial year. In such cases, each failure amounts to a separate default and is counted for each period during that year whereas the underlying act is of not making the disclosure under the same provisions of securities laws for each period. Accordingly, it is proposed that irrespective of the number of times the entity did not make the periodic disclosures in a given calendar year or financial year, all the failures shall be treated as one count of default. In case of failure to make annual disclosure, failure for 3 consecutive years shall be treated as one count of default.

(e) In a given case where there are allegations of more than one misleading statements made in a single advertisement or disclosure or corporate announcement, each such misleading statement amounts to a separate violations and thus is taken as a separate default. The count of default depends on the number of such misleading statements made in that single advertisement or disclosure or corporate announcement whereas the underlying act is relating to one advertisement or disclosure or corporate announcement. Accordingly, it is proposed that irrespective of the number of misleading statements made in a single advertisement or disclosure or corporate announcement, the same shall be treated as one count of default.

(f) In a case where there are allegations of manipulation of price or volume or both in a particular scrip, there may be instances that multiple trades were executed spanning multiple days, months or years. In such cases, each trade may amount to a separate violation and accordingly may be counted as multiple defaults whereas the underlying act is relating to manipulation of price or volume or both, in one particular scrip. Accordingly, it is proposed that irrespective of the number of trades executed in such cases for achieving a particular price or volume in a scrip, the same shall be treated as one count of default.

(g) In a case, where there is an allegation of failure to make entry in structural digital database (SDD) with respect to a particular UPSI, there may be instances where more than one entry was not made in the SDD with respect to a particular UPSI. In such cases, each entry which was not made, amounts to a separate violation and the number of defaults depends on the number of entries not made in the SDD whereas the underlying act is relating to one UPSI. Accordingly, it is proposed that irrespective of numbers of persons whose entries were not made in the SDD relating to one particular UPSI, the same shall be treated as one count of default.

(h) In a case where convertible securities are issued by the company to the existing shareholders as well as the outsiders, allottee of such securities upon conversion may trigger the threshold for making open offer. It may happen that convertible securities issued to such allottee is converted by the allottee into equity shares at different times leading to different triggers. However, underlying act is allotment of convertible securities in a single tranche. Accordingly, it is proposed that failure to make open offer under Takeover Regulations with respect to triggers arising out of convertible securities including warrants issued in a single tranche, shall be treated as one count of default.

(i) In a case relating to allegation of misrepresentation made in financial statements, there may be instances of more than one misrepresentation in one financial statement or same misrepresentation has been made in various quarterly results. In such cases, each misrepresentation is counted as a separate default and same misrepresentation made in each quarterly statement is treated as a separate default. In such cases, the underlying act is misrepresentation relating to financial statement. Accordingly, it is proposed that irrespective of the number of misrepresentation made in one financial statement or number of financial statements containing same misrepresentation, in a financial year, shall be treated as one count of default. Similarly, making false or wrong disclosure during a particular financial year shall be treated as one default irrespective of number of false or wrong disclosures made in financial statement or number of quarterly financials wherein such disclosures were made.

(j) In Deemed Public Issue (DPI) cases, a company might have made various issuances in breach of minimum subscriber's limit. Each such issue would attract DPI norms. Here, each issue would count as a separate default for the purpose of calculation of settlement amount. However, the underlying violation is making issue to beyond prescribed number of persons. Accordingly, it is proposed that number of offerings made in a financial year in violation of deemed public issue norms under Section 25 and/or Section 42 of the Companies Act, 2013, shall be treated as one count of default.

(k) In a case, one act may trigger obligation under two separate provisions of law. In such case, though two provisions have been violated, however, the underlying act remains the same. Accordingly, it is proposed that failure to make number of event based disclosures emanating from one event, shall be treated as one count of default.

The above proposals are made keeping in mind how an Adjudicating Officer or Quasi-Judicial Authorities views these defaults while imposing penalty. Further it is clarified that disgorgement of wrongful gains is to be calculated separately.

(Refer to Regulation 11(8) of proposed Regulations)

(v) **General mitigating factors and residuary clause:** Presently, while assessing the relevant factors, the IC or HPAC or Panel of WTMs may take into account the general mitigating factors with a base value of '0.20' for each of them wherever applicable, subject to a maximum limit of 3. There may be situations where a particular case may attract more mitigating factors than 3, however, due to capping of maximum mitigating factors at 3, more mitigating factors cannot be considered. Whereas, in a given case up to 7 aggravating factors can be applied which carry a total value of 1.65. In order to strike a balance between the general aggravating and mitigating factors, it is being proposed to increase maximum limit of mitigating factors to 5 with a base value of "0.20" each.

Further, presently, there is a list of mitigating factors containing 9 items. It is being proposed to introduce certain new mitigating factors viz.: there was change in control or management of the corporate entity, applicant was an independent director. Further, a residuary clause in the said list is also proposed to be added so that any other relevant mitigating factor in favour of the applicant can also be considered in appropriate cases.

(Refer to Regulation 16 of proposed Regulations)

(vi) **General Aggravating Factors and residuary clause:** Presently, while assessing the relevant factors, the IC or HPAC or Panel of WTMs may take into account the general aggravating factors such as providing inaccurate or misleading testimony, misconduct extended to not less than 30 days, evidence of planning, pre-meditation or sophisticated means, applicant abused a position of trust etc., with a total base value of ‘1.65’ wherever applicable, subject to a maximum limit of 7 factors. In order to balance general aggravating and mitigating factors, so that a balanced, fair and equitable treatment is accorded to the applicant in the settlement proceedings, it is being proposed to reduce general aggravating factors applicable in a case from 7 to 5 with a base value of “0.20” for each of the general aggravating factors. Further, a residuary clause in the said list of aggravating factor is also added so that any other relevant aggravating factor can also be considered in appropriate cases.

(Refer to Regulation 15 of proposed Regulations)

(vii) **Removal of additional 20% Settlement Amount levied in case of multiple proceedings**: Presently, Existing Regulations provide for charging of additional 20% of settlement amount in case enforcement proceedings sought to be settled are multiple. This was the situation earlier where 11B and adjudication proceedings against same noticees were done separately. Presently under 11B proceedings, both directions and penalties, are imposed by the same authority. Hence, the rationale for such additional amount does not exist now. Accordingly, it is being proposed to remove additional settlement amount of 20%, in case of settlement of such proceedings. However, such additional 20% settlement amount shall continue to apply in respect of enquiry proceedings under Section 12(3) of the SEBI Act, 1992.

(Refer to Regulation 10(5) of proposed Regulations)

(viii) **Interest on disgorgement amount:** Presently, wrongful gain or loss caused to investors are disgorged as non-monetary term, as a part of the settlement terms, at the rate of 12% per annum. This interest is charged, on the lines of recovery proceedings of SEBI wherein interest is charged at the rate 1% per month or part thereof. However, 12% interest under recovery is for period after passing of order. For period prior to passing of the order, different quasi- judicial authorities have adopted different rates of interest, as there is no guidance available in the existing laws/regulations. In order to rationalise charging of interest in the settlement proceedings, it is being proposed to charge interest, if no final order is passed by SEBI, at the rate of 9% per annum from the date of transaction till the date of filing of settlement application. If final order is passed by SEBI, interest is proposed to be charged at the rate of 9% per annum from the date of transaction till the date of passing of final order and thereafter, at the rate of 12% per annum, till the date of filing of settlement application.

(Refer to Regulation 20(1) of proposed Regulations)

(ix) **Starting date for calculating period of interest:** Presently, interest is charged on disgorgement amount from the date of the violation till the date of filing of the settlement application. In case of large number of transactions calculating interest from each date of the violations becomes complex. It is being proposed that if there are a number of transactions involved in the violation and the calculation is complex, then the weighted average for each year may be calculated and interest may be charged from the middle of the year.

(Refer to Regulation 20(2) of proposed Regulations)

(x) **No interest on interest:** Interest charged under the settlement proceedings is simple interest. There is no interest charged on the interest unless it is so provided in the SEBI order. However, in order to keep the issue beyond doubt, it is being proposed to provide that no interest shall be charged on the interest amount.

(Refer to Regulation 20(4) of proposed Regulations)

2. **Increasing limitation period for filing settlement applications:** Presently, under the Existing Regulations, limitation period for filing application for settlement in case of pending proceedings is 60 days from the date of service of Show Cause Notice (SCN). The period of 60 days is less for the entities who are body corporate or for the entities who are based outside India, as they need more time to take decision due to their structure or presence outside India. In

view of this, it is being proposed to increase present period of 60 days to 90 days.

(Refer to Regulation 4(1) of proposed Regulations)

3. **Requirement of making pre-disclosures:** At present, in case of disclosure related violations, applicant is required to comply with the requirement of making disclosures, as a precondition, before his settlement application could be considered. Such requirement of making pre-disclosures may lead to a situation where an applicant has made pre-disclosures, however, his application for settlement is ultimately rejected. To avoid such a situation, it is being proposed to defer the requirement of making pre-disclosure. In order to make the settlement process equitable, it is being proposed that the applicant would be required to make such disclosures after approval of his application for settlement by the Panel of Whole Time Members and before passing of settlement order.

(Refer to Regulation 25(4)(c) of proposed Regulations)

4. **Market wide impact, loss caused to investors and effect on the integrity of the market:** In terms of the Existing Regulations, SEBI may not settle a case if in the opinion of SEBI, it has market wide impact, caused loss to large number of investors or affected the integrity of the securities market. At present settlement cases attracting these factors, do not pass through the scrutiny of the Internal Committee (IC) and High Powered Advisory Committee (HPAC). Also, the applicant does not get a chance to present his case before IC as being given in other cases. It is being proposed that these factors shall now be considered by the IC and HPAC who will provide its recommendations to panel of WTMs. It has also been proposed that if such a situation where factors like Market wide impact, loss caused to investors and effect on the integrity of the market, are applicable and the same are curable by way of monetary and non-monetary terms (viz: by bringing back the diverted money, making necessary disclosures about misrepresentations in the financials to the stock exchanges and in explanatory notes to the upcoming financials, etc.), then the same will

be considered by IC/ HPAC before giving their recommendations for settlement of such proceedings.

(Refer to Regulation 22(4)(c) of proposed Regulations)

5. **Non-monetary terms (NMTs) in adjudication cases:** Adjudication proceedings are initiated for the purpose of imposing monetary penalty. At present, if a person wishes to settle adjudication proceedings he may be asked to pay a settlement amount (which is, historically, at premium to penalty amounts) and may also be asked to comply with certain NMTs whereas in the adjudication proceedings such person is liable to be visited with penalty only. It is being proposed that there shall be no NMT in case of settlement of adjudication proceedings. However, this may not apply in all cases. In adjudication proceedings initiated for disclosure related violations, adjudication order contains the details of the non-disclosures through which general public comes to know about the non-disclosure. However, if such an adjudication case is settled then this non-disclosure will never come to the notice of the public. Therefore, it is being proposed that there shall be no NMT, in case of settlement of adjudication proceedings except where it is on account of non-disclosure related violations.

(Refer to Regulation 5(iv) of proposed Regulations)

6. **Voluntary debarment and Voluntary Suspension:** Presently, final settlement terms may also include NMT in addition to settlement amount. In deserving cases, settlement terms may ask the applicant to undergo voluntary debarment from securities market or voluntary suspension from trading in securities, as a NMT. In order to bring consistency and clarity regarding applicability of said NMT, it is being proposed to provide that voluntary debarment or voluntary suspension from trading may be considered as one of the settlement term in proceedings under Section 11B (1) and Section 12(3) of SEBI Act, 1992, where:
   (i) The seriousness and gravity of the violation is high; or
   (ii) The applicant is a key-operator or leader of an illegal activity or the main beneficiary of the default; or
   (iii) The applicant is a repetitive defaulter.

(Refer to Regulation 5(v) of proposed Regulations)

7. **Revision of filing fees:** Presently, under the Existing Regulations, minimum fee for filing settlement application by a natural person is Rs. 15,000/-and by entities other than natural person is Rs. 25,000. These filing fees were fixed in the year 2018 and since then the filing fees have remained unchanged. Accordingly, it is being proposed to increase minimum filing fees from Rs. 15,000/- to Rs. 25,000/- for natural person and from Rs. 25,000/- to Rs. 35,000/- for entities other than natural persons.

   (Refer to Part B of Schedule I of proposed Regulations)

8. **Reduction in additional settlement amount in case of withdrawal of settlement application:** Presently, refiling of settlement application after withdrawal of settlement application, is allowed with 50% additional settlement amount. In order to ease refiling of settlement application after withdrawal of settlement application, it is being proposed to reduce additional settlement amount from 50% to 20%.

   (Refer to Regulation 4(5) of proposed Regulations)

9. **Opportunity to file settlement application where previous settlement application was rejected:** Presently, Existing Regulations do not allow filing of settlement application, at any stage including the appellate stage of the enforcement proceedings, in cases where previous settlement application filed was rejected.

   An applicant whose application has earlier been rejected at the stage of pendency of proceedings before SEBI may like to file settlement application at further stage of the proceedings, if there is change in situation which warranted rejection earlier. This could be due to any order passed by SEBI/SAT or for other reasons.

   Objective of the settlement proceedings is avoidance of protracted litigation and quicker and amicable disposal of enforcement proceedings, and therefore, any entity who wishes to avail settlement process at later stages due to change in circumstances should be allowed to avail the settlement mechanism after paying some additional settlement amount for settling the pending proceedings.

Balancing these two needs, it is being proposed that in case of rejection at pre-SCN stage, the settlement application can be filed at next stage of proceeding i.e. post SCN stage provided the reasons for which settlement application was rejected earlier are no longer applicable, subject to payment of additional settlement amount of 20%. Similarly, if the application is rejected at pre SCN stage or post SCN stage during the pendency of proceedings before the Board then the settlement application can be filed during subsequent stage of proceeding i.e. before the SAT or before the Supreme Court, subject to payment of additional settlement amount of 20%, if the reasons for which settlement application was rejected earlier are no longer applicable.

(Refer to Regulation 4(4) of proposed Regulations)

10. **Fast track settlement:** The Existing Regulations provide for summary settlement in case of certain violations specified therein. Summary proceeding does not go through Internal Committee meeting and High Powered Advisory Committee meeting. However, this applies to only violations specified and not as a general rule. It is now proposed to introduce a mechanism of settlement upto a particular threshold of settlement amount, which would not require to go through High Powered Advisory Committee meeting. Accordingly, it is being proposed to introduce fast track settlement based on violations (present summary settlement) and based on threshold of settlement amount of Rs. 10 lakh. Violation based fast track settlement procedure shall be the same as the existing summary settlement procedure. Fast track settlement based on threshold will not involve High Powered Advisory Committee meeting. Thus, from IC it would go directly to panel of Whole Time Members, if the settlement amount is only upto Rs. 10 Lakh. Once payment is made by the applicant, settlement order shall be passed by the competent authority before whom the specified proceedings are pending or by the Panel of Whole Time Members, if no such proceeding is pending.

(Refer to Regulation 26 to 30 of proposed Regulations)

11. **Settlement Notice before issue of show cause notice:** As per the provisions of the 3 Acts pertaining to settlement and the Existing Regulations, there can be settlement of “may be initiated proceedings”. Accordingly, the Existing Regulations provide a proceeding conversion factor of 0.5, for those who apply for settlement prior to issue of show cause notice. Similarly, lesser value of “S” is proposed under new calculation. However, there is no mechanism available, by which a person could become aware of proceedings which may be initiated against him, in advance of show cause notice. Accordingly, it is being proposed to provide that before issuing any show cause notice, SEBI shall issue a settlement notice in all cases except where prosecution is proposed, intimating the entity that they may avail settlement, if desired, by filing a settlement application within 60 days from receipt of the notice to settle. This will be without prejudice to the right of SEBI to reject such applications in accordance with the regulations.

(Refer to Regulation 31 of proposed Regulations)

12. **Opportunity of hearing in case of revocation of settlement order:** Presently, the Existing Regulations do not provide for opportunity of hearing to the person concerned, in case of revocation of settlement order passed in respect of such person. Revocation of a settlement order is made where there is violation of any terms of the settlement or any information, undertaking or waiver is found to be false or incorrect. Since, revocation of settlement order exposes a person to enforcement proceedings, therefore, in order to comply with requirements of principles of natural justice, it is being proposed to provide an opportunity of hearing in case of revocation of any settlement order.

(Refer to Regulation 41(2) of proposed Regulations)

13. **Power to relax timelines:** Presently, under the Existing Regulations, various activities are required to be performed by the applicants in a time bound manner. Failure to adhere to timelines provided for a particular activity, leads to rejection of the settlement application. Sometimes such timelines are breached due to reasons beyond the control of the applicant. However, in the Settlement Regulations, 2018, there is no specific provision to make relaxation

of such timelines in deserving cases. In order to take care of situations where timelines were breached due to a reasons beyond the control of the applicant, it is being proposed to provide for a provision specifically empowering SEBI to relax timelines where timelines were breached due to a reason beyond the control of the applicant subject to condition that maximum delay which can be condoned is 30 days. Further, it is proposed to charge additional 1% settlement amount, if timeline for which extension is sought pertains to making of payment after issue of notice of demand.

(Refer to Regulation 44 of proposed Regulations)

14. **Removing redundant provisions:** Presently, the Existing Regulations contain provisions which are though present in the Regulations, however have never been applied. These provisions include:

(i) the provision providing for use of settlement formula for imposition of monetary penalties in adjudication proceedings; and

(ii) provision providing for *mutatis mutandis* following of settlement regulations for determining the terms while processing a compounding application.

Adjudicating Officers are independent authorities who levy penalties in accordance with the provisions of the Acts and the Penalty Rules. Any requirement providing for Settlement formula to be followed by the Adjudicating Officers, is extraneous to the legal framework for penalties. As a matter of fact, penalties have never been imposed by the Adjudicating Officers by referring to settlement formula.

Also, compounding is done by the Court where prosecution proceedings are pending. SEBI has a separate guideline for arriving at compounding charges for compounding of offences.

In view of this, it is being proposed to remove both these provisions.

15. **Bringing clarity in application form for Settlement Application:** Presently, Form which is required to be filled for filing settlement applications, requires

applicant to fill certain information which is cumbersome and do not serve any purpose to the settlement proceedings. Further, certain information require clarity, like information about organisational structure and fee payable by entities other than natural persons who are not body corporate. Having regard to this, it is being proposed to modify such requirements, in the Form. Revised proposed Form is enclosed with proposed draft regulations in Annexure II.

(Refer to Part A of Schedule I of proposed Regulations)

16. **Defining certain words:** Presently, in the Existing Regulations and during settlement proceedings, certain words are used extensively, However, these words either required to be defined or require clarity. Accordingly, it is being proposed to either define and/or re-define certain words for bringing clarity. Such words include the words, "alleged default", "specified proceedings", "securities laws", etc. whose proposed definitions are as under:

> *"**alleged default**" means any act or omission resulting into contravention of any provision of the securities laws attracting specified proceedings;*
> *"**days**" means Gregorian calendar days;*
> *"**securities laws**" means the Act, the Securities Contract (Regulations) Act, 1956 (42 of 1956), the Depositories Act,1996 (22 of 1996), the relevant provisions of any other law to the extent it is administered by the Board, and the relevant rules, regulations, master circulars, circulars, general or special orders or guidelines, made or issued thereunder;*
> *"**settlement term**" includes settlement amount, and wherever applicable non-monetary terms also, as approved by the Panel of Whole Time Members;*
> *"**specified proceeding**" means the proceeding that may be initiated by the Board or have been initiated and are pending before the Board or any appeal pending before the Tribunal or the Supreme Court, for the violation of provisions of securities laws, under Section 11, Section 11B, Section 11D, Section 12(3) or Section 15-I of the Act or Section 12A or Section 23-I of the Securities Contracts (Regulation)Act, 1956 or Section 19 or Section 19H of the Depositories Act, 1996, as the case may be;*

(Refer to Regulation 2 of proposed Regulations)

17. **Settlement terms to apply to applicants:** Presently, the Existing Regulations provide that in cases where applicant is a body corporate, settlement amount may be asked to be paid by the officers in default including the persons in charge of the body corporate to avoid burdening investors holding securities issued by the body corporate. Taking cue from this provision, it is viewed that sometimes directors/KMPs of such body corporates are asked to step down as part of NMT, even though such directors/KMPs are not even part of the show cause notice. It is unfair to ask non-noticees to be a part of settlement terms when no violation has been made out against them in the show cause notice. It is being proposed to remove such provision requiring payment of settlement amount by non-noticees and also to specifically provide that settlement terms shall not require any person other than the applicant, to do or refrain from doing something.

(Refer to Regulation 5(vii) of proposed Regulations)

18. **Settlement of cases involving misrepresentation of Financials and siphoning off/diversion of funds:** Presently, cases involving misrepresentation of financials and siphoning off/diversion of funds are dealt under regulation 5(2). As the violations involved therein may be considered having market wide impact, causing loss to large number of investors or impacting the integrity of the market, such cases sometimes are rejected under regulation 5(2) by the Board. In such cases, bringing back the funds diverted to the company and proper disclosure about misrepresentation to investors, are the key issues which if addressed would alter the decision matrix. Accordingly, with respect to settlement of cases involving misrepresentation of financials and siphoning off/diversion of funds, it is being proposed that, -

(i) where the alleged violations have **impacted** the audited financial statements and **continues to impact every subsequent financial statements**, the applicant shall be required *to make a disclosure of the allegations levelled in the show cause notice to the stock exchange and also to incorporate them in the explanatory notes* to the upcoming financial statements forming part of the annual report, as part of the settlement terms. It is also being proposed that in such cases, the applicant will be having the option of stating in its disclosure and the explanatory notes that it is making the disclosure without admission or denial of the findings of fact and conclusions of law, as part of the settlement terms.

(ii) where the alleged violation has **impacted** the past audited financial statements, but **does not impact subsequent audited financial statements**, *the applicant shall be required to make appropriate disclosures for each relevant previous years/period on the designate stock exchange,* as part of the settlement terms. It is also being proposed that in such cases, the applicant shall have the option of stating in its disclosure that it is making the disclosure without admission or denial of the findings of fact and conclusions of law, as part of the settlement terms.

(iii) where the alleged violations **do not impact** the audited financial statements, but **the alleged violation needs to be brought to the notice of the public**, *the applicant shall be required to make appropriate disclosures to the stock exchanges*, as part of the settlement terms. It is also being proposed that in such cases, the applicant shall have the option of stating in its disclosure that it is making the disclosure without admission or denial of the findings of fact and conclusions of law, as part of the settlement terms.

(iv) for other cases, such applications may be settled on such pre-conditions of disclosures to the stock exchange or other settlement terms as may be determined in terms of the Settlement Regulations.

(v) where there are allegations of diversion/siphoning off of funds in the show cause notice, the applicant shall be required to bring back to the company, the diverted/siphoned off funds, along with interests from the date of the contravention till the date of filing the settlement application, as part of the settlement terms.

(vi) where there are allegations of diversion/siphoning off of funds in the show cause notice, any unfair trading/illegal gains or losses averted by the applicant, by trading in the securities market during the time of mis-statement of financials/siphoning off of money, as brought out in the order or the investigation report or the examination report, may also be considered for disgorgement while deciding the settlement terms.

(vii) where there are allegations of diversion/siphoning off of funds in the SCN, and the applicant is willing to bring back the alleged diversion/siphoned off money along with interest as part of settlement terms, the said diversion or siphoning off of the money shall not be an impediment to settling the matter for the reasons that the said diversion or siphoning off, caused loss to the investors.

(Refer to Regulation 18(3) of proposed Regulations)

19. **Use of "days" instead of "working days":** Presently, the Existing Regulations use different terminologies for prescribing time limits in the form of "calendar days" or "working days". It is being proposed to use uniform terminology in the form of "days" which means calendar days. A definition of word "days" is also proposed to be provided to mean "calendar days". Also wherever the time is given in working days in the Existing Regulations, same is proposed to be increased from 14 working days to 21 days (for filing revised settlement terms) and 7 working days to 10 days (for issuing of notice of demand after approval by the Panel of Whole Time Members).

(Refer to Regulation 22(4)(e) and 25(4) of proposed Regulations)

20. **Separate calculation of settlement amount for each applicant:** Presently, the Existing Regulations provide that in case of multiple applicants having joint and several liabilities, indicative amount may be calculated either jointly or separately depending on the facts and circumstances of the case. This has resulted into different practices being adopted for calculation of indicative amount in different cases. In order to avoid different approaches in similar type of cases, it is being proposed to provide that in case of multiple applicants having joint and several liabilities for wrongful gains, while disgorgement amount would continue to be joint and several for wrongful gains, the settlement amount shall be calculated for each applicant, separately.

(Refer to Regulation 10(3) of proposed Regulations)

21. **Option for applicants whose applications are pending:** After coming into force of the new regulations, all those pending applications wherein HPAC meeting has not yet been held would be dealt under the new regulations by holding the fresh Internal Committee meeting. All pending applications wherein Panel of Whole Time Members has approved the settlement terms recommended by the HPAC, such applications would be processed as per the settlement terms approved by the Panel of Whole Time Member under the then Existing Regulations. However, the pending applications wherein HPAC meeting has been held but the settlement terms are yet to be approved by the Panel of Whole Time Members, shall be provided with an option to either choose the processing under the new regulations or to continue to be processed with the amount recommended by the HPAC under the then Existing Regulations.

   (Refer to Regulation 46 of proposed Regulations)

22. **Extending Proposed Regulations to settlement applications not filed, withdrawn, rejected or returned under the Existing Regulations:** Applicants whose applications were earlier rejected, withdrawn or returned under the Existing Regulations or who did not file settlement application for any reason under the Existing Regulations, may like to apply for settlement under the Proposed Regulations, if the specified proceedings sought to be settled thereunder are still pending before the Board or the adjudicating officer. Such application may be filed within a period of 90 days of the commencement of the Proposed Regulations. It is also proposed that such applicants may be asked to pay additional 10% of settlement amount, as computed in terms of the Proposed Regulations.

   (Refer to Regulation 4(2) of proposed Regulations)

Annexure II

GAZETTE OF INDIA

EXTRAORDINARY

PART – III – SECTION 4

PUBLISHED BY AUTHORITY

NEW DELHI, OCTOBER , 2026

SECURITIES AND EXCHANGE BOARD OF INDIA

NOTIFICATION

Mumbai, the October, 2026

SECURITIES AND EXCHANGE BOARD OF INDIA (SETTLEMENT OF PROCEEDINGS) REGULATIONS, 2026

No. SEBI/LAD-NRO/GN/ 2026/ .-In exercise of the powers conferred by Section 15JB of the Securities and Exchange Board of India Act, 1992, Section 23JA of the Securities Contracts (Regulation) Act, 1956 and Section 19-IA of the Depositories Act, 1996 read with Section 30 of the Securities and Exchange Board of India Act, 1992, Section 31 of the Securities Contracts (Regulation) Act, 1956 and Section 25 of the Depositories Act, 1996, the Securities and Exchange Board of India hereby makes the following regulations to provide for the terms of settlement and the procedure of settlement and matters connected therewith or incidental thereto, namely:—

CHAPTER I
PRELIMINARY

Name and effective date.

1. (1) The name of this regulation is the Securities and Exchange Board of India (Settlement of Proceedings) Regulations, 2026.

(2) This regulation shall be effective from the day of 2026.

Definitions.

2. (1) In this regulation, unless the context requires otherwise, the terms defined herein shall have the meanings given to them below and their related words shall derive their meaning from the terms defined hereunder, –

(a) "Act" means the Securities and Exchange Board of India Act, 1992 (15 of 1992);

(b) "alleged default" means any act or omission resulting into contravention of any provision of the securities laws attracting specified proceeding;

(c) "Board" means the Securities and Exchange Board of India established under the provisions of Section 3 of the Act;

(d) "days" means Gregorian calendar days;

(e) "High Powered Advisory Committee" means a committee constituted by the Board under **regulation 23**;

(f) "Internal Committee" means a committee, constituted by the Board under **regulation 21**;

(g) "Panel of Whole Time Members" means the panel of two or more Whole Time Members, constituted by the Chairman of the Board;

(h) "securities laws" means the Act, the Securities Contract (Regulations) Act, 1956 (42 of 1956), the Depositories Act,1996 (22 of 1996), the relevant provisions of any other law to the extent it is administered by the Board, and the relevant rules, regulations, master circulars, circulars, general or special orders or guidelines, made or issued thereunder;

(i) "settlement amount" means an amount determined in terms of this regulation for settlement of specified proceeding;

(j) "settlement term" includes settlement amount, and wherever applicable non-monetary terms also, as approved by the Panel of Whole Time Members;

(k) "specified proceeding" means the proceeding that may be initiated by the Board or have been initiated and is pending before the Board; or any appeal pending before the Tribunal or the Supreme Court, for the violation of provisions of securities laws, under Section 11, Section 11B, Section 11D, Section 12(3) or Section 15-I of the Act or Section 12A or Section 23-I of the Securities Contracts (Regulation)Act, 1956 or Section 19 or Section 19H of the Depositories Act, 1996, as the case may be;

(l) "stage of proceeding" is as referred to in regulation 12(2);

(m) "Tribunal" means the Securities Appellate Tribunal established under Section 15K of the Securities and Exchange Board of India Act, 1992.

(2) Words and expressions used and not defined in this regulation but defined in the Act, the Securities Contracts (Regulation) Act, 1956, the Depositories Act, 1996 or the Companies Act, 2013, or any of the rules or regulations or master circulars or circulars, made or issued thereunder, shall have the same meanings respectively assigned to them in those Acts, rules or regulations or master circular or circulars or any statutory modification or re-enactment thereto, as the case may be.

CHAPTER II
GENERAL

Application for settlement.

3. (1) An entity may make an application to the Board in the Form specified in **Part-A** of the **Schedule-I** proposing for settlement of specified proceeding.

(2) The application made under **sub-regulation (1)** shall be accompanied by, -

(i) a non-refundable application fee as specified in **Part-B** of **Schedule I**;

(ii) the undertaking and waiver as specified in **Part-C** of **Schedule-I**; and

(iii) basis of computation of settlement amount in the format specified in **Part D** of **Schedule-I**.

(3) The applicant shall make full and true disclosure in the application in respect of the alleged default.

(4) The facts established against the applicant or admitted in any ongoing or concluded proceeding in India or outside India, with respect to the same cause of action, under any law, shall be deemed to be admitted by the applicant in respect of the specified proceeding proposed to be settled.

(5) The applicant shall make one application for settlement of all the specified proceeding in respect of the same cause of action.

(6) An application that is not complete in all respects or does not conform to the requirements of this regulation shall be returned to the applicant.

(7) The applicant whose application has been returned under **sub-regulation (6)** may, within fifteen days from the date of communication from the Board, submit the complete and revised application that conforms to the requirements of this regulation.

(8) If the applicant fails to submit the complete and revised application within the time given under **sub-regulation (7)**, no further opportunity shall be given to the applicant to make an application in respect of the same alleged default at the same stage of the proceeding.

(9) **Sub-regulation (8)** does not prevent the applicant, where applications has been earlier returned, to make an application in respect of the same alleged default at subsequent stage of the proceeding.

(10) Where the applicant is an entity which is not a natural person, the application and undertaking and waiver shall be executed by a duly authorised person who is the person in charge of, and responsible for the conduct of the business of such entity and the same shall bind such entity.

Limitation.

4. (1) An application in respect of settlement of any specified proceeding pending before the Board shall not be considered if it is made after ninety days from the date of service of the show cause notice or the supplementary show cause notice, whichever is later.

(2) Settlement application for settlement of specified proceeding pending before the Board, as on the date of commencement of this regulation, can be filed within a period of ninety days from the date of commencement of this regulation irrespective of the fact that the settlement application for settlement of such specified proceeding was previously not filed or has been rejected, returned or withdrawn under the SEBI (Settlement Proceedings) Regulations, 2018.

(3) Settlement amount for applications referred in **sub-regulation (2)** shall be ten percent more than the settlement amount calculated in terms of **regulation 10**.

(4) Settlement application once rejected can be filed at subsequent stage of proceeding if the reason for earlier rejection no longer applies and subject to payment of twenty percent additional settlement amount.

(5) Settlement application once withdrawn can be filed at the same stage or at the subsequent stage of the proceeding subject to payment of twenty percent additional settlement amount.

(6) Nothing contained in **sub-regulation (4) and (5)** shall apply to settlement applications which are filed after rejection or withdrawal, respectively, under **sub-regulation (2)**.

(7)The provisions of **sub regulation (1)** shall not apply in case proceeding is pending before the Tribunal or the Supreme Court, which means that application can be filed at any time when proceeding is pending before the Tribunal or the Supreme Court.

General Principles.

5. While considering an application for settlement, the Internal Committee, High Powered Advisory Committee and the Panel of Whole Time Members and the Board shall have regard to following general principles:

(i) Subject to compliance with settlement terms by the applicant, settlement of specified proceeding under this regulation, is a rule and rejection is an exception;

(ii) Settlement terms of specified proceeding wherein show cause notice has been issued, shall be guided by the nature of enforcement proceeding initiated;

(iii) Settlement terms of specified proceeding wherein show cause notice has not been issued, shall be guided by the nature of specified proceeding which would have been initiated by the Board having regard to the violations involved and facts and circumstances of the matter;

(iv) Settlement terms of specified proceeding wherein show cause notice issued envisages only imposition of monetary penalty, shall not ordinarily have non-monetary terms other than those pertaining to disclosures;

(v) Non-monetary terms of voluntary debarment or suspension shall form part of the settlement terms, in settlement of specified proceeding, other than adjudication proceeding, only where:

(a) the seriousness and gravity of the violation is very high;

(b) the applicant is a key-operator or leader of an illegal activity or the main beneficiary of the alleged default; or

(c) The applicant is a serial defaulter;

(vi) Subject to **clause (v)**, non-monetary terms of voluntary debarment or suspension may not form part of the settlement terms, if the situation arising out of alleged default, can be adequately taken care by monetary settlement terms;

(vii) Except as otherwise provided in this regulation, settlement terms shall not require any person other than the applicant, to do or refrain from doing something;

(viii) Settlement terms in case of settlement of specified proceeding involving diversion or siphoning off of the funds or assets of a listed company or its subsidiary, may contain bringing back of the diverted or siphoned off funds or assets back to the listed company or its subsidiary, as one of the terms;

(ix) Save as otherwise provided in this regulation, disgorgement of wrongful gains made or loss averted alongwith applicable interest, shall be part of settlement terms, according to the nature of the enforcement proceeding;

(x) Settlement terms in a matter shall have a reasonable nexus with the possible outcome of the specified proceeding and the person against whom specified proceeding has been initiated or would have been initiated.

CHAPTER III
SCOPE OF SETTLEMENT

Scope of settlement proceeding:

6. (1) Save as otherwise provided in this regulation, specified proceeding may be settled except the following:

   (i) where the settlement application for the same defaults has been previously rejected unless the application is covered under **regulation 4(2) and 4(4):**

   (ii) where the audit or investigation or inspection or examination, if any, in respect of any cause of action, is pending except in case of settlement application involving confidentiality;

   (iii) where the applicant is a wilful defaulter, fraudulent borrower or a fugitive economic offender.

   Explanation: (a) Wilful defaulter or fraudulent borrower means a person or an issuer who or which is categorized as a wilful defaulter or a fraudulent borrower by any bank or financial institution, as defined under section 2(39) of the Companies Act, 2013, or consortium thereof, in accordance with the guidelines on wilful defaulters or fraudulent borrowers issued by the Reserve Bank of India.

   (b) Fugitive economic offender has the same meaning as given under Section 2(1)(f) of the Fugitive Economic Offenders Act, 2018.

(2) Nothing contained in this regulation shall be construed to restrict the right of the Panel of Whole Time Members to accept or reject any application in respect of any specified proceeding, in the interest of investors or for the development and regulation of the securities market, with or without examination by the Internal Committee or the High Powered Advisory Committee.

Rejection and withdrawal of application.

7. (1) An application may at any time be rejected on the following grounds, namely:-

   (a) Where the applicant does not receive or respond to the communications sent by the Board;

(b) Where the applicant does not submit or delay the submission of information, document, revised settlement terms, etc., as called for by the Board;

(c) Where the applicant who is required to appear, does not appear before the Internal Committee on more than one occasion;

(d) Where the applicant violates in any manner the undertaking and waiver as provided in **Part-C** of the **Schedule-I**;

(e) Where the applicant does not remit the settlement amount within the period specified in **regulation 25(4)(a)** or does not abide by the undertaking and waiver;

(f) Where the applicant fails to comply with the condition imposed for settlement within the time as required or does not comply with non-monetary terms imposed for settlement.

(2) The rejection under **sub-regulation (1)** shall be communicated to the applicant.

(3) An application may be withdrawn at any time prior to the communication of the decision of the Panel of Whole Time Members, accepting or rejecting the settlement application.

(4) The rejection or withdrawal of the application shall not affect the continued validity of the undertakings and waivers given in respect of limitation or laches and the waivers given in **Part-C** of the **Schedule-I** and the Board or the applicant, shall be free to initiate or pursue such proceeding as may be appropriate in accordance with law.

Effect of pending application on specified proceeding.

8. (1) The filing of an application for settlement of any specified proceeding shall not affect the continuance of the enforcement proceeding save that the passing of the final enforcement order shall be kept in abeyance till the disposal of the settlement application.

(2) Where the application is filed in case of specified proceeding that may be initiated against the applicant, such proceeding shall not be initiated till the application is disposed of or withdrawn.

(3) Irrespective of anything contained in **sub-regulation (2)**, filing of an application shall not prohibit the initiation of any specified proceeding, in so far as may be necessary for the purpose of issuance of interim civil and administrative directions to protect the interests of investors and to maintain the integrity of the securities markets.

(4) Where any proceeding is pending or to be initiated against several entities but the settlement application is filed only by some entities, the filing of such an application by some entities shall not affect the initiation, continuation and disposal of the enforcement proceeding against the entities who have not filed the application for settlement and any adverse

observations made in such proceeding against the applicant shall *qua* the applicant be subject to the outcome of the settlement application filed by such applicant.

CHAPTER IV
TERMS OF SETTLEMENT

Settlement terms.

9. (1) The settlement terms shall include a settlement amount, as referred in **regulation 10** and may also include non-monetary terms, as referred in **regulation 17**.

(2) The settlement amount, excluding the legal costs and disgorged amount, shall be credited to the Consolidated Fund of India.

(3) The application fee referred to in **regulation 3(2)** and the legal costs, if any, forming part of the settlement amount shall be credited to the General Fund of Securities and Exchange Board of India as constituted under Section 14 of the Act.

Explanation. – Legal costs shall include liquidated costs, as may be determined by the Board, in respect of costs for obtaining appropriate orders from the Tribunal or Court under **regulation 37** and include other expenses incurred by the Board in any other proceeding before any Court or Tribunal in respect of such application.

(4) The amount of wrongful gains made or losses averted or loss caused to investors by the applicant which forms part of the settlement terms, shall be credited to the Investor Protection and Education Fund as referred in Section 11(5) of the Act or any statutory modification or re-enactment thereof.

Settlement amount.

10. (1) The settlement amount shall be calculated as per the following formula:

Settlement Amount (SA) = BA × (S + R + G + A - M)

Where,

'BA' = Base Amount as per **regulation 11**

'S' = Stage of Proceeding as per **regulation 12**

'R' = Regulatory Action Factor as per **regulation 13**

'G' = Gravity factors given under **regulation 14**

'A' = Aggravating factors given under **regulation 15**

'M' = Mitigating factors given under **regulation 16**

If net sum of **(S + R + G + A - M)** is less than one, it shall be taken as one.

(2) The settlement amount shall not be less than Rupees Three Lakh for first time applicant or Rupees Seven Lakh for others, as the case may be.

Explanation. -A 'first time applicant' is a person against whom no order has been passed by the adjudicating officer or by the Board or who has never obtained a settlement order from the Board as on the date of the filing of present application.

(3) Settlement amount shall be calculated for each applicant, separately, however, settlement amount can be paid by all the applicants separately or jointly.

(4) Settlement amount, wherever applicable, shall include legal cost incurred by the Board in defending the specified proceeding before the Tribunal or the Supreme Court.

(5) Twenty percent additional settlement amount shall be payable where settlement is in respect of specified proceeding under Section 12(3) of the Act alongwith any other specified proceeding, arising from the same cause of action.

(6) In cases where the settlement amount cannot be determined in accordance with the **regulations 10 to 17**, due to the peculiar nature of the default or the facts and circumstances of the case, the Internal Committee or High Powered Advisory Committee or Panel of Whole Time Members may recommend a settlement amount, as they deem fit.

Base Amount (BA)

11. (1) Base amount shall be the minimum penalty amount applicable as provided under the Securities and Exchange Board of India Act, 1992, Securities Contracts (Regulation) Act, 1956 and Depositories Act, 1996, multiplied by the appropriate multipliers applicable as per the type of the applicant, as provided below:

Type of Applicant	**Multiplier**
Independent Director	2
Natural Person	2.5
Non-executive Director	3
Executive Director or Promoter in control or Key Managerial Person	3.5
Company, intermediaries, Pooled Investment Vehicles and others	4

(2) For the case attracting various violations of the provisions of the securities laws, the base amount shall be calculated having regard to the following:

(i) Base amount shall be calculated for each count of the alleged default and then aggregated;

(ii) Where a single alleged default attracts multiple violations of securities laws and consequently attracts multiple base amounts, higher of such base amounts shall be considered;

(iii) Where different alleged defaults attract different base amounts (calculated as per **clause (i)**), then base amount shall be the sum of all the base amounts applicable for each of such defaults;

(iv) If any of the natural person is lead conspirator (person alleged as mastermind or key operator in the order or the investigation report or examination report or show cause notice or enquiry report) then the base amount of such person, determined as above, shall be doubled;

(v) The base amount for independent director shall be taken at par with executive director, if as per the order or the investigation report or the examination report or the inspection report or show cause notice, the independent director is alleged to be beneficiary of the fraud, or has actively participated in the alleged fraud.

(3) The base amount shall not be less than the penalty imposed for the alleged default for which settlement is being sought.

(4) The base amount shall be calculated based on the alleged default in the examination report or the inspection report or the investigation report or the enquiry report or the notice to show cause, including any supplementary notice to show cause issued by any authority in a pending proceeding, or in the order passed by the Board or the Tribunal, as the case may be.

(5) Where the order is under challenge before the Tribunal or the Supreme Court, the base amount shall be calculated on the basis of allegations upheld in the order impugned before the Tribunal or the Supreme Court, as the case may be.

(6) where Board has preferred appeal before the Supreme Court against the relief provided by the Tribual, then only 50% of the Base Amount for each count of such defaults shall be considered.

(7) A default shall be treated as repetitive if the default of the same or similar nature is committed by the same person more than once.

(8) The following defaults shall not be treated as repetitive, namely:-

a. Insider trading arising out of a particular unpublished price sensitive information (UPSI) irrespective of number of trades executed by the applicant in one UPSI period with respect to that UPSI;
b. Front running of the trades of a particular order of a particular Big Client irrespective of number of trades front run by the applicant during the trading day;
c. Failure to make periodic disclosures during a calendar or a financial year;
d. Failure to make annual disclosures in three consecutive year;
e. Number of misleading statements made in a single advertisement or disclosure or corporate announcement;
f. Number of trades executed for achieving a particular price or volume in a scrip;
g. Failure to make entry in structural digital database with respect to a particular UPSI irrespective of numbers of persons whose entries were not made;
h. Failure to make open offer under Takeover Regulations with respect to triggers arising out of convertible securities including warrants issued in a single tranche;
i. Misrepresentation made in the financial statements in a financial year:
j. Making false or wrong disclosure during a particular financial or calendar year;
k. Number of offerings made in a financial year in violation of deemed public issue norms under Section 25 and/or Section 42 of the Companies Act, 2013;
l. Failure to make event based disclosures emanating from one event;
m. Any other defaults which having regard to the facts and circumstances of the case, in the opinion of Internal Committee, High Powered Advisory Committee or Panel of Whole Time Members, needs to be treated as one default.

(9) If in a particular case, Internal Committee, High Powered Advisory Committee or Panel of Whole Time Members, feels that number of defaults are higher or lower then it may reduce or increase the number of defaults to an extent as deemed fit.

Stage of Proceeding Factor (S)

12. (1) The value assigned on the basis of the stage of the enforcement proceeding, as on the date of filing of settlement application, shall be the stage of proceeding factor.

(2) Stage of proceeding factor shall be determined as per following table, namely: -

STAGE OF THE PROCEEDING(S) WHEN THE SETTLEMENT APPLICATION IS FILED			VALUE OF ‘S’
a.	Voluntary	*Suo Motu*	0.20
		Before issue of Show Cause Notice	0.40
b.	Post issue of Show Cause Notice		0.60
c.	Pending before Designated Member in case of Enquiry proceeding under Section 12(3) of the Act Pending before the Board under Section 15I(3) of SEBI Act, 1992 or Section 23I(3) of Securities Contracts (Regulation) Act, 1956 or Section 19H(3) of Depositories Act, 1996		0.80
d.	Pending before the Tribunal		1.00
e.	Pending before the Supreme Court		1.50

(3) Where multiple enforcement proceeding arising out of the same cause of action are sought to be settled, the value of the enforcement proceeding which is at the most advanced stage, shall be taken as the stage of proceeding factor.

Regulatory Action Factor (R)

13. (1) The sum of all the values assigned to the orders and regulatory directions issued against the applicant shall be regulatory action factor.

(2) Regulatory action factor shall be determined as per following table, namely: -

ORDERS AND REGULATORY DIRECTIONS ISSUED TO THE APPLICANT	VALUE PER ORDER OF ‘R’
No prior order passed	0
Administrative Warning issued	0.10 per Administrative Warning
Settlement Order passed	0.20 per Settlement Order
Order passed (in adjudication proceeding, proceeding for directions and disciplinary proceeding)	0.30 per Order

(3) Regulatory action factor shall also include and assign values to those orders which have been stayed by the Tribunal or the Court.

(3) Regulatory action factor shall be applied for each order passed or administrative warning issued whether arising out of same cause of action or different cause of actions.

Gravity Factor (G)

14. (1) A gravity factor of "0.25", for reputation risk, shall be added in all settlement applications which are without admitting violation of securities laws.

(2) The following gravity factors shall also be added in all settlement application, wherever applicable, namely: -

Nature of Violation		Base Value
1.	Failure to make open offer under SEBI (Substantial Acquisition of Shares and Takeover) Regulations, 2011	0.25
2.	Offer documents related violations (without allegation of violation of SEBI (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Market) Regulations, 2003)	0.50
3.	Violations of regulations 3 and 4 of SEBI (Prohibition of Insider Trading) Regulations, 2015	0.50
4.	Violations of SEBI (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Market) Regulations, 2003	1.50

Aggravating Factors (A)

15. The Internal Committee or High Powered Advisory Committee or Panel of Whole Time Members shall take into account the following aggravating factors, wherever applicable, with a base value of '0.20' for each of them, subject to a maximum of five aggravating factors:

(i) Efforts to frustrate or prolong an investigation, inquiry or a civil and administrative proceeding, including settlement proceeding:

(ii) Providing inaccurate or misleading testimony or information or failing to provide information that applicant was bound to provide;

(iii) Misconduct over an extended period of time which is not less than 30 days;

(iv) Significant monetary loss to the clients which exceeds in aggregate of Rs 5 crores;

(v) Applicant failing to heed prior regulatory guidance and prior warnings;

(vi) Evidence of planning, pre-meditation or sophisticated means:

Explanation: Conducting default across different jurisdictions, hiding assets or transactions, or both, through the use of fictitious entities, corporate shells or offshore financial accounts ordinarily indicates sophisticated means.

(vii) A listed intermediary or securities Market Infrastructure Institution being substantially jeopardized.

Explanation. - A listed intermediary or securities market infrastructure institution shall be deemed to have been substantially jeopardized if as a result of the alleged default:

a. it has become insolvent or an application under the Insolvency and Bankruptcy Code, 2016 was admitted;

b. it was unable on demand to refund fully any public deposit, payment or investment; or

c. it is so depleted of assets that it is forced to merge with another institution in order to continue active operations.

(viii) Act or omission of Market Infrastructure Institution was such that the functioning of such Market Infrastructure Institution or other Market Infrastructure Institution being substantially jeopardized.

Explanation: Functioning of a Market Infrastructure Institution shall be deemed to have been substantially jeopardized if it was rendered incapable of performing the functions for which it has been established, beyond one hour fifteen minutes.

(ix) The liquidity of the securities of a publicly traded company being substantially endangered i.e. it was delisted or trading of the company's securities was halted for more than one full trading day;

(x) The applicant abusing a position of trust or used a special skill, in a manner such that significantly facilitated the commission or concealment of the alleged default:

Explanation 1. - This factor applies if the applicant occupied and abused a position of trust. It does not apply to an ordinary tippee.

Explanation 2. - This factor applies if the applicant's position involved regular participation or professional assistance in creating, issuing, buying, selling, or trading securities or products was used to facilitate significantly the commission or concealment of the default. It does not apply to clerical staff in an organisation; as such position ordinarily does not involve special skill.

Explanation 3. - 'Special skill' refers to a skill not possessed by members of the general public and requires professional education, training or licensing, e.g. chartered accountant, advocate, auditor, compliance officer, etc.

Explanation 4. - This factor also applies where the applicant has represented himself to hold a position of trust when, in fact, applicant does not.

(xi) The applicant being the key-operator, whether or not applicant traded:

Explanation 1. - A person is a key-operator if that person was an organizer or leader of an illegal activity or the main beneficiary of the default:

Explanation 2. - If a person is merely a manager or supervisor (but not an organizer or leader or the main beneficiary) then that person is not a key-operator.

Explanation 3. - The Internal Committee or High Powered Advisory Committee or Panel of Whole Time Members may take into account factors such as share of profits, the recruitment of accomplices, the degree of control and authority exercised over others.

(xii) Exercising management control by use of fraudulent or forged securities or securities issued without appropriate approvals;

(xiii) The action is not in accordance with the applicable internal procedures;

(xiv) The applicant taking decisions relating to the violation beyond his field of competence;

(xv) The applicant benefiting financially from the violation, either directly or indirectly;

(xvi) The alleged default being repetitive under a single count.

(xvii) The body corporate or the responsible person, being aware of a risk that their actions or inaction could result in a violation of securities laws and failing adequately to mitigate that risk:

Explanation. – The following shall be deemed to be reckless, -

a. failure to appoint competent officials for discharge of their duties, including a compliance officer;

b. failure to put in place adequate systemic safeguards; or

c. failure to put in place a code of conduct.

(xviii) Search and seizure being conducted by the Board in the matter.

Mitigating Factors (M)

16. The Internal Committee or High Powered Advisory Committee or Panel of Whole Time Members shall take into account the following mitigating factors, wherever applicable, with a value of '0.20' for each of them, subject to a maximum limit of five mitigating factors, namely: -

(i) The settlement amount would affect the ability of the applicant to make restitution to investors:

(ii) The applicant had minimal participation in the alleged default;

(iii) Proactive and exceptional cooperation, including:

a. Prompt and detailed self-identification of suspected or uncovered misconduct;

b. Early self-identification of contraventions followed by thorough internal reviews and sharing of discovered facts;

c. Substantial assistance to an investigation or inquiry by obtaining and providing evidence.

(iv) Acceptance of responsibility and acknowledgement of misconduct to the Board prior to detection and intervention by truthfully admitting the conduct;

(v) Employing subsequent substantial corrective measures to avoid recurrence of misconduct;

(vi) Where the delay in complying with the reporting requirement was less than 7 days and non-reporting did not result in undue gains or loss to any person;

(vii) Acts of compensation, disgorgement of commission, profits and payment of restitution to investors;

(viii) Disclosure made in the incorrect format;

(ix) Applicant is a unit of governmental authority including a public-sector unit;

(x) In non-disclosure (including incorrect or incomplete disclosure) matters, applicant has made related disclosure under any other regulation or is a body corporate with paid-up equity share capital (including reserves) below Rupees Ten crores (not applicable to companies which are exclusively holding companies);

(xi) Persons who are indigent or undergoing liquidation or bankruptcy process or whose resolution or repayment plan has submitted to the adjudicating authority for approval;

(xii) There being change in control or management of corporate entity since committing of violation;

(xiii) Applicant was an independent director at the time of alleged default;

(xiv) Any other factor which is deemed fit in the facts and circumstances of the case.

Non-monetary terms

17. (1) The non-monetary terms may include the following, namely: -

(a) Implementation of enhanced procedures and policies to prevent future securities laws violations as well as agreeing to appoint or engage an independent consultant to review internal policies, processes and procedures;

(b) Provide enhanced training and education to employees of intermediaries and securities market infrastructure institutions;

(c) Submit to enhanced internal audit and reporting requirements;

(d) Suspension or cessation of business activities for a specified period;

(e) Exit from Management;

(f) Clawback of the benefits received by the applicant, for services rendered in violation of securities laws;

(g) Deposit in Investor Protection and Education Fund any amount alongwith appropriate interest which the applicant has been directed to pay as disgorgement amount under any order passed by SEBI, Tribunal or the Court, or amount of any wrongful gains or loss averted or loss caused to investors, alongwith interest, as given in the order or the investigation report or the show cause notice or the examination report or the inspection report;

(h) Refraining from acting as a partner or officer or director of an intermediary or as an officer or director of a company that has a class of securities regulated by the Board, for specified periods;

(i) Cancel securities where the securities are issued fraudulently, including bonus shares received on such securities, if any, and recover any dividend paid, etc.;

(j) Lock-in of securities;

(k) Restraining from accessing the securities market and/or prohibiting from buying, selling or otherwise dealing in securities, directly or indirectly and associating with the securities market in any manner for a specific period; and

(l) any other term which may be deemed appropriate in the facts and circumstances of the case.

(2) In case of joint and several liabilities, wrongful gains made or loss avoided or loss caused to investors, alongwith interest, shall be payable together by all those applicants who are seeking settlement.

Factors to be considered to arrive at the non-monetary term.

18. (1) While arriving at the non-monetary term, factors enumerated herein but not limited thereto, may be considered, namely:-

(a) conduct of the applicant during the specified proceeding, investigation, inspection or audit;

(b) the role played by the applicant in case the alleged default is committed by a group of persons;

(c) nature, gravity and impact of alleged defaults;

(d) market wide impact of the default;

(e) number of investors to whom loss is caused;

(f) effect on the integrity of the market;

(g) whether any other proceeding against the applicant for violation of securities laws is pending or concluded;

(h) the extent of harm and/or loss to the investors' and/or gains made by the applicant;

(i) processes and measures that have been introduced since the alleged default to minimize future defaults or lapses;

(j) compliance schedule proposed by the applicant;

(k) economic benefits accruing to any person from the non-compliance or delayed compliance;

(l) conditions which are necessary to deter future non-compliance by the same or another person;

(m) satisfaction of claim of investors regarding payment of money due to them or delivery of securities to them;

(n) any other factors necessary in the facts and circumstances of the case.

(2) For **sub-regulations (1)(d), (1)(e) and (1)(f)**, whether market wide impact, loss caused to investors and effect on the integrity of the market, can be adequately taken care by imposing monetary and non-monetary terms on the applicant, shall be a relevant factor.

(3) In case of enforcement proceeding other than the adjudication proceeding:

(i) Where the alleged violations have impacted the audited financial statements and continue to impact every subsequent financial statements, the applicant shall be required to make a disclosure of the allegations levelled in the show cause notice on the stock exchange and also incorporate them in the explanatory notes to the upcoming annual financial statements forming part of the annual report, as part of the settlement terms.

(ii) Where the alleged violation has impacted the audited financial statements, but is not a continuing violation that continues to impact subsequent audited financial statements, the applicant shall be required to make appropriate disclosures for each relevant previous years or period, as a part of the settlement terms.

(iii) Where the alleged violations do not impact the audited financial statements, rectification or regularisation of the previous financial statements or in the next audited financial statements, may not be required as a part of the settlement terms.

(iv) If the alleged violation needs to be brought to the notice of the public, the applicant shall make appropriate disclosures.

(v) Where the violations do not impact the audited financial statements and are not continuing violations, the applicant shall make disclosures or follow other conditions, as part of the settlement terms.

(vi) Where there are allegations of diversion or siphoning off of funds in the show cause notice in addition to the allegations mentioned in **sub-regulations (3)(i), (3)(ii), (3)(iii) and (3)(iv)** above, the applicant shall be required to bring back to the company, the diverted or siphoned off funds, along with interests from the date of the contravention till the date of filing the settlement application, as part of the settlement terms.

(vii) Where there are allegations of diversion or siphoning off of funds in the show cause notice, any unfair trading or illegal gains or losses averted by the applicant, by trading in the securities market during the time of mis-statement of financial or siphoning off of money, as brought out in the order or the investigation or the examination report, may be considered while deciding the settlement terms.

(viii) Where there are allegations of diversion or siphoning off of funds in the show cause notice, and the applicant is willing to bring back all the allegedly diverted or siphoned off money along with interest as part of settlement terms, the said diversion or siphoning off of the money shall not be an impediment to settle the matter for the reasons that the said diversion or siphoning off, caused loss to the investors.

(4) The modification of the charge may be sought in case the Internal Committee or the High Powered Advisory Committee or the Panel of Whole Time Members, is of the opinion that the facts disclose a different default.

(5) The alleged defaults shall, wherever applicable, be categorised based on the facts and circumstances by the Internal Committee or the High Powered Advisory Committee or the Panel of Whole Time Members.

(6) In case where sub-regulation 3(i), 3(ii) or 3(iii) apply, the applicant shall have the option of stating in its disclosure and the explanatory notes that it is making the disclosure without admission or denial of the findings of fact and conclusions of law, as part of the settlement terms.

Settlement amount in case of grant of confidentiality

19. In case of grant of confidentiality by the Board, the settlement amount arrived in accordance with this regulation shall, be reduced as follows, -

(i) those marked first in priority status may be granted reduction of up to or equal to ninety percent of the settlement amount;

(ii) those marked second in priority status may be granted reduction of upto or equal to fifty percent of the settlement amount; and

(iii) those marked third or subsequent in the priority status may be granted reduction upto or equal to twenty-five percent of the settlement amount.

Interest

20. (1) Wherever wrongful gain or loss avoided or loss caused to investors, it is to be disgorged, the applicant shall also be liable to pay interest at the rate and for the period as under, namely:-

(i) if no final order is passed by the Board, at the rate of nine percent per annum from the date of transaction till the date of filing of settlement application; or

(ii) if final order is passed by the Board, at the rate of nine percent per annum from the date of transaction till the date of passing of final order and thereafter, at the rate of twelve per annum till the date of filing of settlement application.

(2) Interest on the amount of wrongful gains or loss avoided and/or loss caused to investors, shall be charged from the date of individual violation or transaction till the date of filing of settlement application.

(3) If there are number of transactions and the calculation as per sub-regulation (2) is complex, then the weighted average for each year may be calculated and interest may be charged from the middle of the year.

(4) Interest shall only be charged on the principal disgorgement amount and no interest shall be charged on unpaid interest amount.

CHAPTER V
COMMITTEES AND PANEL OF WHOLE TIME MEMBERS AND PROCEDURE

Internal committee.

21. (1) The Board shall constitute Internal Committees comprising its officials.

(2) The Internal Committee shall comprise an officer of the Board not below the rank of Chief General Manager and such other officers as may be specified by the Board.

(3) The Board may constitute as many numbers of Internal Committees as are required for the purposes of this regulation.

Proceeding before the Internal Committee.

22. (1) Save as otherwise provided in this regulation, an application shall be referred to an Internal Committee to examine whether the proceeding may be settled and if so to determine the settlement terms in accordance with this regulation.

(2) The applicant shall be provided an opportunity of hearing or meeting before the Internal Committee, which can be attended by the applicant himself or through a duly authorized representative of the applicant.

Explanation. - Hearing includes physical hearing or hearing in virtual mode through audio-video electronic means.

(3) The Internal Committee may adjourn a hearing scheduled before it or may recall applicant for another hearing before it.

(4) The Internal Committee may:

(a) call for relevant information, documents, etc., pertaining to the alleged default in possession of the applicant or obtainable by the applicant

Explanation. – Nothing in this regulation shall confer a right upon the applicant to seek information from the Board or require the Board to seek information from any other person for the purpose of relying upon it in the settlement proceeding or request the Board to permit it to present information not already disclosed in the application, which the applicant was aware of at the time of making the application or which information upon diligent enquiry being made could have become known to the applicant.

(b) call for the personal appearance of the applicant before it.

Explanation. - Personal appearance under this clause includes appearance through audio-video electronic means or through the medium of electronic video linkage as may be permitted by the Internal Committee.

(c) ascertain market wide impact of the default, loss cause to investors as a result of the default or effect of default on the integrity of the market.

Explanation: Whether market wide impact, loss caused to investors and effect on the integrity of the market, can be adequately compensated by imposing monetary and non-monetary terms, shall be a relevant factor for determining settlement of proceeding.

(d) satisfy itself as to, -

(i) whether the applicant has refunded or disgorged the monies due, to the satisfaction of the Board;

(ii) whether the applicant has provided an exit or purchase option to investors in compliance with securities laws, to the satisfaction of the Board;

(iii) whether the applicant is in compliance with securities laws or any order or direction passed under securities laws, to the satisfaction of the Board;

(iv) any other factor as may be deemed appropriate by the Internal Committee.

(e) permit the applicant to submit revised settlement terms within a period not exceeding twenty-one days from the date of the Internal Committee meeting.

(f) require that the settlement amount shall be paid by Asset Management Company or the investment manager, as the case may be, in case settlement application is made by a Pooled Investment Vehicle settling alleged defaults against it.

(5) Notwithstanding anything contained in this regulation, the Internal Committee shall have the discretion to recommend acceptance or rejection, or to recommend an amount, lower or higher than the amounts arrived at in terms of this regulation, for reasons to be recorded, in accordance with the provisions of securities laws, considering the facts and circumstances of the case and the gravity of the charges.

(6) Save as otherwise provided under this regulation, the revised settlement terms proposed by the applicant after Internal Committee meeting shall be placed before the High Powered Advisory Committee, except in cases where settlement amount calculated in terms of this regulation is upto ten lakh rupees:

(7)If the settlement terms also include non-monetary terms then the matter shall be placed before High Powered Advisory Committee, irrespective of the fact that the settlement amount is less than ten lakh rupees.

High Powered Advisory Committee.

23. (1) The Board shall constitute a High Powered Advisory Committee for consideration and recommendation on the revised terms of settlement proposed by the applicant and the recommendation made thereon by the Internal Committee.

(2) The High Powered Advisory Committee shall consist of a Judicial member who has been the Judge of the Supreme Court or a High Court and three external experts having expertise in securities market or in matters connected therewith or incidental thereto.

(3) The term of the members of the High Powered Advisory Committee shall be three years which may be extended for a further period of three years.

(4) The quorum for a meeting of the High Powered Advisory Committee shall be of three members.

Explanation. - Meeting includes meeting through audio-video electronic means or through the medium of electronic video linkage.

(5) The recommendation of the High Powered Advisory Committee shall be made on the basis of decision of the majority of the members.

(6) In case there is no consensus or majority, the recommendation made by the Judicial Member shall be the recommendation of the High Powered Advisory Committee.

(7) In case of recusal by the Judicial member, the recommendation by the consensus or majority of the remaining members shall be the recommendation of High Powered Advisory Committee.

(8) The High Powered Advisory Committee shall conduct its meetings in the manner specified by the Board in this regard.

(9) Where any member of the High Powered Advisory Committee seeks recusal, the remaining two or more members may submit their recommendation on the terms of settlement.

(10) where all or all but one of the members of the High Powered Advisory Committee recuse themselves in respect of an application, the Board may constitute another High Powered Advisory Committee for such matter.

Proceeding before the High Powered Advisory Committee.

24. (1) The High Powered Advisory Committee shall consider the proposed settlement terms and recommendation of Internal Committee, placed before it along with the following:

(a) the application, undertaking and waivers of the applicant;

(b) factors specified in **regulation 18**;

(c) settlement terms or revised settlement terms as proposed by the applicant;

(d) any other relevant material available on record.

(2) The High Powered Advisory Committee may seek revision of the settlement terms and refer the application back to the Internal Committee.

(3) Notwithstanding anything contained in this regulation, the High Powered Advisory Committee shall have the discretion to recommend acceptance or rejection, or to recommend an amount, lower or higher than the amounts arrived at in terms of this regulation, for reasons to be recorded, in accordance with the provisions of securities laws, considering the facts and circumstances of the case and the gravity of the charges.

(4) After considering the material mentioned in **regulation 24(1)**, the High Powered Advisory Committee shall make its recommendation regarding acceptance or rejection of settlement terms.

(5) The recommendations of the High Powered Advisory Committee shall be placed before the Panel of Whole Time Members.

Proceeding before the Panel of Whole Time Members.

25. (1) The Panel of Whole Time Members shall consider the recommendations of the High Powered Advisory Committee and may accept or reject the same.

(2) Where the recommendations of the High Powered Advisory Committee to settle the specified proceeding are not accepted by the Panel of Whole Time Members, then-

(a) the panel may return the application for re-examination of the settlement terms and thereafter the procedure as applicable in the case of an original application shall be followed by the Internal Committee and the High Powered Advisory Committee; or

(b) the panel may reject or return the application and shall record the reasons for rejection or return of the recommendations and such decision of the panel of Whole Time Members alongwith the reasons for rejection or return, shall be communicated to the applicant.

(3) Where the panel of Whole Time Members accepts the recommendation of the High Powered Advisory Committee to reject an application, the applicant shall be intimated of such rejection along with the reasons for rejection and the applicant shall be given seven days' time to submit his acceptance with the original settlement terms as discussed with the Internal Committee or such settlement terms as approved by the panel of Whole Time Members, failing which the settlement application shall be deemed to be rejected.

(4) Where the Panel of Whole Time Members accepts the recommendation of the High Powered Advisory Committee to settle the specified proceeding, the applicant shall be issued a notice of demand within ten days of the decision of the panel and the applicant shall, -

(a) remit the settlement amount forming part of the settlement terms, not later than thirty days from the date of receipt of the notice of demand, only through the dedicated payment gateway provided for the purpose by the Board.

(b) fulfil or undertake in writing to abide by, the other settlement terms, if any, within the time provided to the applicant.

(c) comply with any other condition forming part of the settlement terms within the time given in this regard.

(5) Notwithstanding anything contained in this regulation, the Panel of Whole Time Members shall have the discretion to accept or reject an application, or to recommend an amount, lower or higher than the amounts arrived at in terms of this regulation, for reasons to be recorded, in accordance with the provisions of securities laws, considering the facts and circumstances of the case and the gravity of the charges.

CHAPTER VI
FAST TRACK SETTLEMENT PROCEEDING

Fast track settlement procedure.

26. (1) The settlement proceeding under this regulation may be called fast track settlement proceeding.

(2) Fast track settlement proceeding shall be of two types:

(i) Violations based fast track proceeding; and

(ii) Monetary threshold based fast track proceeding.

(3) Nothing contained in **Chapter V** shall apply to the settlement proceeding under this Chapter.

Violation based fast track proceeding.

27. (1) The Board may, before initiating any specified proceeding, issue a notice of fast track settlement in the format as specified in **Schedule-II**, calling upon the noticee to file a settlement application under **Chapter- II** and submit the settlement amount and furnish an undertaking in respect of other non- monetary terms or comply with other non-monetary terms, as may be specified in the fast track settlement notice in respect of the specified proceeding to be initiated for the following defaults,-

    i. Delayed disclosures, including filing of returns, report, document, etc.;
    ii. Non-disclosure in relation to companies exclusively listed on regional stock exchanges which have exited;
    iii. Disclosures not made in the specified formats;
    iv. Delayed compliance of any of the requirements of law or directions issued by the Board;
    v. Such other defaults as may be determined by the Board.

(2) Irrespective of anything contained in this regulation, the Board may not issue a fast track settlement notice under this regulation if in the opinion of the Board, the applicant has failed to make a full and true disclosure of facts or failed to co-operate in the required manner.

(3) Irrespective of anything contained in the notice of fast track settlement, the Board shall have the power to modify the enforcement action to be brought against the noticee or applicant or entity and the notice of settlement shall not confer any right upon the noticee or entity to seek settlement or avoid any enforcement action.

(4) The noticee or entity to whom a notice under **sub-regulation (1)** has been issued may, within thirty days from the date of receipt of the notice of fast track settlement, -

(a) file a settlement application in the Form specified in **Part-A** of **Schedule-I** along with non-refundable application fee as specified in **Part-B** of **Schedule-I** and the undertakings and waivers as specified in **Part-C** of **Schedule-I**;

(b) remit the settlement amount as specified in the notice of fast track settlement;

(c) comply or undertake to comply with other non-monetary terms as specified in the notice of fast track settlement, as the case may be: and

(d) seek rectification of the calculation of the settlement amount, as communicated in the notice of fast track settlement, at the time of filing the settlement application and in all such cases, the decision of the Board shall be final and remittance shall be made by the applicant within thirty days from the date of receipt of the decision of the Board.

(e)The Board may for reasons to be recorded, grant extension of time not exceeding a further period of fifteen days for filing the settlement application or for remittance of the settlement amount and/or furnishing an undertaking in respect of any of the non-monetary terms or compliance with any of the non-monetary terms specified in the notice of fast track settlement.

(5) Upon being satisfied with the remittance of settlement amount and undertaking furnished in respect of the non-monetary terms or compliance with non-monetary terms, if any as detailed in the settlement notice, the Board shall pass an order of settlement under **regulation 36**.

Monetary threshold based fast track proceeding.

28. (1) While considering an application for settlement in accordance with **regulations 22**, if Internal Committee is of the opinion that settlement amount calculated under this regulation is upto ten lakh rupees and no non-monetary terms are applicable, the Internal Committee shall call upon the applicant to file revised settlement terms within 21 days.

(2) Upon receipt of revised settlement terms, the application shall be placed before panel of whole Time Members and thereafter the procedure as specified in **regulation 25 and 36** shall apply *mutatis mutandis.*

Effect of threshold based fast track proceeding on specified proceeding.

29. Save as otherwise provided under **Chapter VI**, this regulation shall *mutatis mutandis* apply to an application made under **regulation 28**.

Consequence of failure to avail fast track proceeding

30. Irrespective of anything contained in this regulation, where an entity does not file a settlement application under **regulation 27** or remit the settlement amount with in time specified in the notice given under **regulation 27(2)** or fails to make the payment of settlement amount as required under **regulation 28(2)**, the specified proceeding may be initiated or continued against such entity, and such an entity shall only be permitted to file a settlement application in respect of the proceeding pending before the Tribunal or the

Supreme Court, after conclusion of proceeding before the Adjudicating Officer or the Board, as the case may be.

Settlement Notice.

31. (1) A notice of settlement in the format as specified in **Part B** of **Schedule II**, indicating the substance of the probable charges and enforcement actions, shall except in cases where prosecution is one of the approved enforcement action or the cases covered under **regulation 27**, be issued by the Board prior to issuance of notice of show cause so as to afford entity an opportunity to file a settlement application under **Chapter-II**, within sixty calendar days from the receipt of the notice of settlement.

(2) Irrespective of anything contained in settlement notice, the Board shall have the right to modify the nature of the enforcement action to be initiated against the entity and the charges stated in the notice shall not confer any right to seek settlement on the said basis or avoid any enforcement action due to modified charges.

CHAPTER VII
SETTLEMENT WITH CONFIDENTIALITY

Settlement with confidentiality.

32. (1) An applicant seeking the benefit of confidentiality in return for admitting for the limited purpose of settlement of specified proceeding to be initiated and agreeing to provide substantial assistance in the investigation, inspection, examination or audit, to be initiated or ongoing, against any other person in respect of a violation of securities laws, shall fulfil the conditions of this Chapter, including –

(a) cease to participate in the violation of securities laws from the time of the disclosure of information, unless otherwise directed by the Board;

(b) provide and continue to provide complete and true disclosure of information, documents and evidence, which is in possession of the applicant or which the applicant is able to obtain, to the satisfaction of the Board in respect of the alleged contravention of the provisions of securities laws;

(c) co-operate fully, continuously and expeditiously throughout the investigation, inspection, examination or audit and related proceeding before the Board; and

(d) not conceal, destroy, manipulate or remove the relevant documents in any manner that may contribute to the establishment of the alleged violation.

Explanation. – Violation of securities laws in this Chapter refers to defaults other than those of disclosure and reporting requirements.

(2) An application under this chapter shall be made only in cases prior to or pending investigation, inspection, examination or audit.

(3) Irrespective of anything contained in this Chapter, where an applicant fails to comply with the conditions mentioned in this regulation, the Board may rely upon the information and evidence submitted by the applicant in any proceeding.

(4) In addition to restrictions or conditions mentioned in **sub-regulations (1)** and **(3)**, the Board may subject the applicant to further restrictions or conditions, as deemed fit, after considering the facts and circumstances of the case.

(5) For the purpose of seeking confidentiality, the applicant or its authorized representative may make an application containing all the relevant disclosures pertaining to the information as specified in **Schedule-III** for furnishing the information and evidence relating to the commission of any violation of securities laws.

(6) Upon being satisfied the Board may assure the benefit of confidentiality and shall thereupon mark the status of the application depending upon its priority and convey the same to the applicant in writing.

(7) The Board may, for reasons to be recorded in writing, at any stage, reject the application if the information, documents or evidence is found to be incomplete or false to the knowledge of the applicant.

(8) The rejection of the application for confidentiality shall be communicated to the applicant.

Procedure.

33. (1) The provisions of **Chapters IV to VI** of this regulation may be applied *mutatis mutandis* to a settlement application filed under this Chapter and a settlement order passed thereon.

(2) The information, documents and evidence provided by the applicant under this chapter shall be submitted in the manner specified by the Board.

Confidentiality and assurance.

34. For the purposes of providing the applicant with interim confidentiality and assurance of not being proceeded with, the Board may not initiate regulatory measures when the Board has a reasonable belief that the information provided to it relates to a possible securities law violation that has occurred, is ongoing or about to occur.

Confidentiality.

35. (1) Irrespective of anything contained in **Chapter VIII**, the following shall be treated as confidential, -

(a) the identity of the applicant seeking confidentiality; and

(b) the information, documents and evidence furnished by the applicant under this Chapter.

(2) Irrespective of anything to the contrary contained in **sub-regulation (1)**, the identity of the applicant or such information or documents or evidence may not be treated as confidential if, -

(i) the disclosure is required by law;

(ii) the applicant has agreed to such disclosure in writing; or

(iii) there has been a public disclosure by the applicant.

CHAPTER VIII
SETTLEMENT ORDERS

Settlement Order.

36. (1) On the basis of settlement terms approved by the Panel of Whole Time Members, respective specified proceeding, pending before the competent authority or the Whole Time Member, shall be disposed of by passing an appropriate order, by the concerned competent authority or the Whole Time Member.

(2) In case of settlement applications filed, in a *suo moto* matter or in pursuance of a notice issued under **Chapter VI**, the competent authority of the Board shall dispose of the respective specified proceeding, by passing an order in accordance with settlement terms as approved by the Panel of Whole Time Members or by passing an appropriate order in accordance with the settlement terms agreed by the person to whom the summary settlement notice has been issued.

(3) The settlement order passed under this regulation shall, contain the details of the alleged default, relevant provisions of the securities laws, brief facts and circumstances relevant to the alleged default, the admissions made by the applicant, if any and the settlement terms.

(4) The settlement order in matters relating to the confidentiality shall not, directly or indirectly, disclose the identity of the applicant, but shall indicate the provisions of securities laws which the applicant is alleged to have violated.

Procedure for settlement of the proceeding pending before the Tribunal or any court.

37. (1) Save as otherwise provided in this regulation, the provisions with regard to settlement of specified proceeding shall *mutatis mutandis* apply to an application for settlement of any proceeding pending before the Tribunal or any court.

(2) The proposal of settlement along with the settlement terms or rejection thereof shall be placed before such Tribunal or court for appropriate orders.

Service and publication of settlement order.

38. Settlement orders shall be served on the applicant and shall also be published on the website of the Board.

Settlement Schemes.

39. Irrespective of anything contained in this regulation, the Board may specify a settlement scheme for any class of persons involved in respect of any similar specified defaults.

Explanation. - A settlement order issued under a Settlement scheme shall be deemed to be a settlement order under this regulation.

Effect of settlement order on third party rights or other proceeding.

40. (1) A settlement order under this regulation shall not be admissible as evidence in any other proceeding relating to an alleged default not covered under the settlement order nor affect the right of third parties arising out of the alleged default.

(2) Where any applicant who obtains a settlement order is also noticee along with any other person in any civil or administrative proceeding, the Competent Officer while disposing proceeding against such other person may make necessary observations in respect of the applicant in so far as is necessary to prove the act of another.

(3)Unless the settlement order is revoked, such observations shall qua the applicant be subject to the settlement order obtained by the applicant.

(4) Where any person has obtained a settlement order, which contains observations in respect of any other person for the commission of an alleged default, such an order shall not in itself be admissible as evidence against such other person.

(5) Passing of settlement order by the Board in respect of a particular applicant shall not be relied upon by other persons, who are co-noticees with the applicant in the specified

proceeding, for seeking exoneration or claiming that the enforcement proceeding have become infructuous *qua* them.

Revocation of the settlement order.

41. (1) If the applicant fails to comply with the terms of settlement order or at any time after the settlement order is passed, it comes to the notice of the Board that the applicant has not made full and true disclosure or has violated the undertakings or waivers, settlement order shall stand revoked and withdrawn and the Board shall restore or initiate the proceeding, with respect to which the settlement order was passed.

(2) Before revocation of any settlement order, the applicant will be given an opportunity of hearing before the Board or the Competent Authority.

(3) Whenever any settlement order is revoked, no amount paid under this regulation shall be refunded.

CHAPTER IX

MISCELLANEOUS

Confidentiality of information.

42. (1) All information submitted and discussions held in pursuance of the settlement proceeding under this regulation shall be deemed to have been received or made in a fiduciary capacity and the same may not be released to the public, if the same prejudices the Board and/or the applicant.

(2) Where an application is rejected or withdrawn, the applicant and the Board shall not rely upon or introduce as evidence before any court or Tribunal, any proposals made or information submitted or representation made by the applicant under this regulation:

(3)Sub-regulation (2) shall not apply where the settlement order is revoked or withdrawn under this regulation.

Explanation. – When any fact is discovered in consequence of information received from a person in pursuance of an application, so much of such information, whether it amounts to an admission or not, as relates distinctly to the fact thereby discovered, may be proved.

Power to remove difficulties.

43. In order to remove any difficulty in the interpretation or application or implementation of the provisions of this regulation, the Board shall have the power to issue clarifications and specify procedures through circulars or guidelines.

Power to relax.

44. (1) The Board may, in furtherance of the objective of this regulation and subject to such conditions as deemed fit, relax the timelines provided for the performance of any act, -

(i) where the deadline for performance of such act is not more than thirty days old; and

(ii) non-adherence to the timelines was due to factors beyond control of the applicant.

(2) Power to relax contained in sub-regulation (1) shall not apply to extending time limit provided under **regulation 4(1)**:

(3) The Board may increase settlement amount by one percent. where extension of time sought is with respect to payment of settlement amount beyond the time provided in the notice of demand.

Irregularity in procedure.

45. (1) No settlement order or rejection of a settlement application shall be invalidated on ground of any defect in procedure or determination of the settlement terms or on account of any vacancy in or any defect in the constitution of any committee under Chapter V.

(2)Nothing in this regulation shall prohibit the Board from revoking the settlement order where the applicant fails to pay any difference due to any discrepancy in arriving at the settlement terms.

(3)The applicant shall continue to be bound by the waivers given in respect of limitation or laches in respect of initiating or continuing or restoring of any legal proceeding and the waivers given in sub-paras (d), (e) (f) and (g) of para 12 of the undertaking and waivers as provided in Part-C of the Schedule-I.

Explanation. – For the removal of doubts, it is clarified that the power to seek the difference under this regulation shall include and always be deemed to have included the profits gained or losses avoided out of the violations for which the specified proceeding also have been initiated.

Transitional Provision.

46. (1) Settlement applications pending with the Board as on the date of commencement of this regulation shall be dealt as follows**:**

(i) All pending applications wherein Panel of Whole Time Members has approved the settlement terms recommended by the High Powered Advisory Committee, shall be dealt with as per the settlement terms approved by the Panel of Whole Time Members, under SEBI (Settlement Proceedings) Regulations, 2018.

(ii) All pending applications wherein High Powered Advisory Committee has made its recommendations but the settlement terms are yet to be approved by the Panel of Whole Time Members as on the date of commencement of this regulation, the applicant shall be provided with an option, to be exercised within 30 days from the receipt of notice from the Board, to either seek processing under this regulation afresh or to seek processing of his application with settlement amount recommended by the High Powered Advisory Committee under SEBI (Settlement Proceedings) Regulations, 2018.

(iii) All pending applications wherein High Powered Advisory Committee is yet to make any recommendation shall be dealt under this regulation by holding the fresh Internal Committee meeting.

Repeal and savings.

47. (1) On and from the commencement of this regulation, Securities and Exchange Board of India (Settlement Proceedings) Regulations, 2018 shall stand repealed.

(2) Irrespective of such repeal:

(a) Notice of settlement issued under the Securities and Exchange Board of India (Settlement Proceedings) Regulations, 2018 shall be deemed to have been filed in accordance with this regulation and shall be dealt with in accordance with the provisions of this regulation;

(b) All settlement orders passed under the Securities and Exchange Board of India (Settlement of Administrative and Civil Proceedings) Regulations, 2014 or Securities and Exchange Board of India (Settlement Proceedings) Regulations, 2018 shall be deemed to have been passed under this regulation;

(d) The Internal Committee and the High Powered Advisory Committee constituted by the Board in accordance with the Securities and Exchange Board of India (Settlement Proceedings) Regulations, 2018, shall be deemed to have been constituted under this regulation.

SCHEDULE-I

(See regulation 3)

<u>Part-A</u>

FORM

Application for settlement

(For Office use only)

Date of receipt of the application:

Application Registration Number:

*(**Instructions:** All particulars, including submission regarding details of loss caused to investors, profit made and proposed settlement amount must be filled, else application shall be returned. Put 'NA' only where NOT APPLICABLE.)*

Before the Securities and Exchange Board of India

In the matter of …………………………..

1. Name/Trade name of the applicant/co-applicants:
   (a) Registration no., if applicable:
   (b) Date of Registration, if applicable:
   (c) PAN/DIN/CIN number, as available:
2. If stock broker, name of the stock exchange:
3. If authorised person, name of stock broker with whom affiliated and name of the stock exchange:
4. Form of organization: corporate body/ sole proprietorship / partnership / LLP, etc. (if listed co., details of listing):
5. Address/correspondence address, contact no. and email (any changes in aforesaid details shall be communicated to the Board promptly):
6. Name and contact details (including e-mail) of the contact person (s):
7. Enforcement Proceeding pending before the Board (pl. specify):
8. Enforcement Proceeding concluded by the Board (pl. specify):
9. Case(s) pending with Tribunal/Court, where SEBI is a party (Pl. specify):

10. Proceeding pending with any other enforcement agencies, if any:
11. Other actions pending with/concluded by the Board (with their details) against the applicant and other details, if any:
12. Date of show cause notice/summons/communication indicating probable cause of action, if any, against which the settlement is sought (PLEASE ENCLOSE COPIES) *:
13. Stage at which pending including details of hearing opportunity given by the Board or the Adjudicating Officer, if any:
14. Full and true disclosure of facts (including the loss caused, profit made, loss avoided, gross fees, brokerage, commissions, etc., in respect of the cause of action, with manner of calculation thereof):
15. Specific charges alleged:
16. Submissions in respect of regulations 6(1)(iii), 23(3)(d) and 23(3)(e):
17. Terms of settlement proposed by the Applicant: -
    (a) Settlement Amount along with the basis of calculation in terms of Schedule-II (viz: Base values selected, aggravating factors, mitigating factors etc., as applicable)
    (b) Non-monetary terms, including manner of calculation of terms of disgorgement due: -
18. Original documents to be enclosed:
    (a) Undertakings and waivers (as per Format specified in Part C).
    (b) Authority letter/Board resolution.
19. List of other enclosures:
    (a) A copy of the notice to show cause/summons/communication/other notices indicating the probable cause of action, if any, against which the settlement is sought;
    (b) Copy of PAN card/ DIN/CIN details (in case of a non-resident applicant, include details relating to passport and national identity document, if any);
    (c) In case of a foreign body corporate applicant, include details relating to incorporation, place of business, registration details with any non-Indian financial sector regulatory authority.
    (d) Any other relevant document (s)/submissions.

(Signature of the applicant)

(Stamp and Seal of body corporate applicant)

Verification

I,……………..son/daughter/wife of (Name in block letters)………………………………….. Shri/Ms…………being the applicant/authorised representative (in case of body corporate) of ……………………. do hereby verify and affirm on oath that this application and the contents thereof are true to my knowledge and belief and as per the records and that I have not suppressed any material facts and shall keep the Board informed without delay, of any other relevant information that may come to my notice.

(Signature of the applicant)

Date:

Place:

Part-B

A. Every applicant under Chapter II of this regulation shall pay a non-refundable processing fee of rupees thirty-five thousand, by way of payment through the dedicated payment gateway provided for the purpose:

B. Where the applicant is a natural person, the non-refundable processing fee shall be rupees twenty-five thousand.

Part-C

Undertakings and Waivers

Format

[Undertaking to be submitted by each applicant, along with the self –attested application with stamp duty duly paid]

I/We, …………………, the applicant(s) herein, as a condition for making the enclosed application to the Board for examining and consideration of the application, hereby declare that I/we agree and undertake that:

(1) I/We admit the jurisdiction and right of the Securities and Exchange Board of India to initiate appropriate proceeding in respect of the alleged default.

(2) I/We further agree and undertake that the time spent during the settlement proceeding shall be excluded for computing the limitation period or laches, if any, for initiating or continuing or restoring any legal proceeding, if any, against me/us, and waive any objections in this regard.

(3) The Securities and Exchange Board of India may enforce any claims against me/us arising from or/in relation to any violation of the settlement order passed pursuant to this application.

(4) Nothing in the settlement order shall preclude any other person from pursuing any other legal remedy to which such person may be entitled against me/us as per law.

(5) The settlement proposed by me/us does not limit or create any private rights or remedies for any person who is not a party to these proceeding, against me/us.

(6) The settlement amount including legal costs, if any, shall be paid by me/us to the Board within the period stipulated by the Board.

(7) The settlement order shall be construed and enforced in accordance with the Securities and Exchange Board of India (Settlement of Proceedings) Regulations, 2026, as amended from time to time.

(8) I/We agree that subsequent to the passing of the settlement order, I/We shall not take any action or make or permit to be made any public statement denying, directly or indirectly, any finding of the Board including that recorded in the settlement order or creating impression that the settlement order is without factual basis.

(9) I/We hereby declare that nothing in the waiver and undertaking given by me/us shall affect my/our (i) testimonial obligations, or (ii) right to take legal or factual positions in defence of litigation or in defense of a claim or in any other legal proceeding in which the Board is not a party.

(10) I/We for the limited purpose of settlement under this regulation 'admit the findings of fact and conclusions of law' or 'neither admit nor deny the findings of fact and conclusions of law' (strike off whichever is not applicable), and agree to abide by the settlement order as may be passed in accordance with the Securities and Exchange Board of India (Settlement Proceedings) Regulations, 2018 and guidelines and circulars issued by the Board in that regard.

(11) I/We waive my/our right of taking any legal proceedings against the Securities and Exchange Board of India concerning any of the issue covered in the settlement order that may be passed.

(12) I/We further waive the following:

(a) the findings of fact and conclusions of law;

(b) the proceeding before the Board or any officer of the Board;

(c) the right to all post-hearing procedures;

(d) appeal/review before the Tribunal/courts;

(e) any plea relating to such provisions of the regulations or other requirements of law, including conflict of interest, as may be construed to prevent any member or officer of the Securities and Exchange Board of India from participating in the proceeding, including settlement proceeding or assisting or advising the Internal Committee, High Powered Advisory Committee or Panel of Whole Time Members, as to, any order, opinion, finding of fact, or conclusion of law, etc.;

(f) any plea of bias or pre-judgment by the Securities and Exchange Board of India, the officers or the High Powered Advisory Committee, based on the consideration of or discussions concerning settlement of all or any part of the internal proceeding; and

(g) any plea of limitation or laches for initiating or restoring of the proceeding, if the applicant violates the settlement order.

(13) I/We undertake as a condition of settlement to not seek, directly or indirectly, any set-off, reimbursement by way of indemnification, insurance coverage or any other form of non-tax reimbursement.

(Signature of the applicant with stamp and seal of the body corporate)

Before me.

Notary.

Part – D

Settlement Amount = BA × (S+R+G+A-M)		
BA	**(Regulation 11)**	
S	**(Regulation 12)**	
R	**(Regulation 13)**	
G	**(Regulation 14)**	
A	**(Regulation 15)**	
M	**(Regulation 16)**	
	(S+R+G+A-M)	
SA	**BA × (S+R+G+A-M)**	
Legal Cost*		
Disgorgement Amount**		

**Legal cost incurred by the Board in defending the enforcement action before the Tribunal or the Supreme Court.*

***Amount of disgorgement alongwith interest calculated in terms of regulation 20.*

SCHEDULE – II

PART A

(*See regulation 27*)

Format

To,   Date:

…….

Address

Sub: Notice of violation based fast track settlement in the matter of

....

During the course of investigation/ inspection/ examination/ audit in the matter of……………………………………………….… the Securities and Exchange Board of India (SEBI) has *prima facie* observed that you have violated the following provisions of the securities laws:

(i) …………..

(ii)…………..

(iii) …………..

(iv) …………..

Extracts of the findings are enclosed.

2. In view of the aforesaid, probable proceeding against you under….***(relevant provisions under which the proceeding may be initiated or continued)*** may be initiated or continued

3. Notwithstanding anything contained in this notice, the Board reserves the right to modify the proceeding and charges to be brought against you and this notice shall not confer any right to seek settlement or avoid any action initiated by the Board.

4. Subject to Regulation 6 of the SEBI (Settlement of Proceedings) Regulations, 2026 the aforesaid proceeding to be initiated may be settled upon filing of a settlement application under Chapter-II of the SEBI (Settlement of Proceedings) Regulations, 2026 and upon remittance of a settlement amount of Rs………………… to SEBI in terms of ….. ………………… (provision) of SEBI (Settlement of Proceedings) Regulations, 2026

within thirty days from the date of receipt of this notice and upon complying with the following non-monetary terms (if applicable):

(i) . …………………

(ii)…………………..(please specify any other terms)

5. In case the settlement application is not filed or the settlement amount is not remitted and/or undertaking in respect of other non-monetary terms is not furnished or other non-monetary terms are not complied with to the satisfaction of the Board or the settlement application is withdrawn, the specified proceeding may be initiated and you shall be permitted to file a settlement application only at the next stage in respect of proceeding pending, before the Tribunal or the Supreme Court, after conclusion of proceeding before the Adjudicating Officer or the Board, as the case may be.

Name, designation and signature

Encl: As above

Part-B

(See regulation 31)

Format

To **Date**

…….

Address

Sub: Notice of settlement in the matter of ....

During the course of investigation/ inspection/ inquiry/ audit in the matter of ……………………………………… the Securities and Exchange Board of India (SEBI) has prima facie observed that you have violated the following provisions of the securities laws:

(i) …………..

(ii) …………..

(iii) …………..

(iv) …………..

Extracts of the findings in brief are enclosed.

2. In view of the aforesaid, proceeding against you under…. (relevant provisions under which the proceeding may be initiated or continued) may be initiated.

3. By the present notice you are being informed that under SEBI (Settlement of Proceedings) Regulations, 2026, you may make an application within 60 days of receipt of this notice seeking settlement of aforesaid proceeding. Your application for settlement shall be considered in accordance with SEBI (Settlement of Proceedings) Regulations, 2026 and filing of any application pursuant to this notice does not guarantee settlement of probable proceeding.

4. Notwithstanding anything contained in this notice, the Board reserves the right to modify the proceeding and charges to be brought against you and this notice shall not confer any right to seek settlement or avoid any action initiated by the Board.

5. If the settlement application is not filed within the aforesaid period of 60 days, the Board may initiate any proceeding against you in accordance with law.

Name, designation and signature

Encl: As above"

SCHEDULE - III

(*see Regulation 32*)

Application for confidentiality

1. The application for confidentiality shall be in the format convenient to the applicant and shall inter-alia, include the following, -

    i. name and address of the applicant or its authorized representative as well as of all other known participants involved in the alleged default;
    ii. the address of the applicant for communication including the telephone numbers and the e- mail address, etc.;
    iii. a detailed description of the alleged arrangement, including its aims and objectives and the details of activities and functions carried out for securing such aims and objectives;
    iv. the commencement and duration of the default;
    v. the names, positions, office locations and, wherever necessary, home addresses of all persons who, in the knowledge of the applicant, are or have been associated with the alleged defaulters, including those persons who have been involved on behalf of the applicant;
    vi. the details of other authorities, forums or courts, if any, that have been approached or are intended to be approached in relation to the alleged violation;
    vii. a descriptive list of evidence regarding the nature and content of evidence provided in support of the application for confidentiality; and
    viii. any other material information as may be directed by the Board.

(Signature of the applicant)

(Stamp and Seal of body corporate applicant)

Verification

I, ………………………………………………son/daughter/wife of (Name in block letters) Shri …………………………………..being the applicant/authorised representative (in case of body corporate) of do hereby verify and affirm on oath that this application and the contents thereof are true to my knowledge and belief and as per the records and that I have not suppressed any material facts and shall keep the Board informed without delay, of any other relevant information that may come to my notice.

(Signature of the applicant)

Date:

Place:

2. The undertaking and waiver as specified in Part C of Schedule-I shall be annexed to the application for confidentiality.