

LAW & POLICY UPDATE

CORPORATE & COMMERCIAL



SEBI amends Settlement Proceedings Regulations

By: Bharat Sharma, Partner & Ankit Shah, Senior Associate

The Securities and Exchange Board of India (SEBI) on July 22, 2020, vide notification¹ issued the Securities and Exchange Board of India (Settlement Proceedings) (Amendment) Regulations, 2020 (Amendment) to amend Securities and Exchange Board of India (Settlement Proceedings) Regulations, 2018 (Regulations).

The Regulations deal with settlement for alleged or probable contravention of any provision of the securities laws (defined in the Regulations to mean 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 and regulations made thereunder).

Salient features of the Amendment are set out below:

- The time limit for remittance of the settlement amount has been increased from fifteen (15) calendar days to thirty (30)² calendar days from receipt of the demand notice.
- The time limit for extension for making remittance of the settlement amount has been increased to sixty (60)³ calendar days. The extension for making remittance of settlement may be allowed provided the applicant has filed an extension application within thirty (30) days from the date of receipt of the demand notice.
- The requirement to pay the settlement amount by way of 'a demand draft to be drawn in favor of SEBI Mumbai' has been omitted. Payment can now be made through 'electronic' means "or any other authorized" means.
- Entire Chapter VIII of the Regulations which contained Regulation 18 has been omitted. Prior to the Amendment, in case a settlement application was not filed by an applicant within fifteen (15) calendar days from the date of receipt of the settlement notice, such an applicant could file a settlement application only at the next stage in respect of proceedings pending before a Court or a tribunal, after conclusion of proceedings before the Adjudicating Officer or the Board, as the case may be. Accordingly, it would now be open to an applicant to file a settlement application even during the pendency of the proceedings before the Adjudicating Officer or the Board, as the case may be.
- For the purpose of arriving at a settlement, the applicant can present his case or meet only the Internal Committee⁴.
- The Amendment has substituted Schedule II, in Chapter VI, in Table X of the Regulations providing a new table for fines for each unit of alleged default for each applicant or on joint liability basis (as per the sum of applicable amounts in case of joint applicants). Earlier, the table for the residuary base amount for alleged default did not include promoters as an applicant. However, the new table for the residuary base amount for alleged default has now included promoters as an applicant in case of the alleged default.

¹https://www.sebi.gov.in/legal/regulations/jul-2020/securities-and-exchange-board-of-india-settlement-proceedings-amendment-regulations-2020_47147.html

² Clause 2(a), Regulation 15 of the Amendment.

³ Ibid.

⁴ Regulation 12 states that Internal Committee(s) shall be constituted by SEBI and shall comprise of an officer of SEBI not below the rank of Chief General Manager and such other officers as may be specified by SEBI.

