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WHITE BLACK LEGAL is an open access, peer-reviewed and refereed journal providededicated to express views on topical legal issues, thereby generating a cross current of ideas on emerging matters. This platform shall also ignite the initiative and desire of young law students to contribute in the field of law. The erudite response of legal luminaries shall be solicited to enable readers to explore challenges that lie before law makers, lawyers and the society at large, in the event of the ever changing social, economic and technological scenario.

With this thought, we hereby present to you

“LISTING AND DELISTING OF SECURITIES IN INDIA: AN ANALYSIS”

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1. Introduction

Start-ups necessitate large investments. Among the many options available to them, they frequently turn to soliciting public investment in their organization. This is accomplished by distributing securities to the investor. As a result, the investor has a stake in the company's capital.A share is just a portion of the company's share capital.[1] As a result, the securities market (sharemarket) serves two functions in the economy: first, it brings buyers and sellers together on a singleplatform. Second, to eliminate information asymmetry, the corporation does not give incorrect information (or conceal information) to the public, which might alter the market demand for its securities. This is why securities law in India is such a strict process: it affects both buyers and sellers, as well as the economy as a whole. The shares have no inherent worth; their market priceis determined by two variables. One is the share's liquidity (the price at which the seller is willingto sell it and the buyer is willing to pay). The second component is the company's profit/loss whiledoing business.[2] Thus, the major goal of listing law is to govern

[1] Section 2(46), Company’s Act, 1956
[2] Akhilesh R. Bhargava, Delisting Regulation- A Start, Vol. 45, Sebi & Corp. Laws 37(2003) The profit causes the price of the share to go increase, while loss decreases the value of the share.

transactions and encourage investment in the stock market. This article examines the listing and delisting regulations in Indiain relation to the role of the stock market, as well as the economic logic behind them.

2. Rules for Listing And Economic Implication

Listing generally implies getting a company's securities listed in the stock market in order to raiseinvestment and trade. The primary goals of listing are to give ready marketability, liquidity, and free negotiability to stocks and shares, as well as to assure adequate supervision and control of dealings in such securities, and to protect the interests of shareholders and the general investing public.[3] In India, the listing process is governed by three legislative provisions: Section 73 of the Companies Act of 1956, Section 21 of the Securities Contracts (Regulation) Act of 1956 [hereinafter SCR Act], and Rule 19 of the Securities Contracts (Regulation) Rules of 1957 [hereinafter SCR Rules]. The SEBI Guidelines[4] would also be of importance. Section 73 of theCompanies Act requires any firm planning to offer shares or debentures to the public for subscription through the publication of a prospectus to apply to one recognized stock exchange forthe listing of these shares or debentures.[5] S. 9(1)(m) of the SCR Act gives stock exchanges the authority to create bye-laws to provide for the listing of securities, including listing agreements[6] with entities seeking to be listed. More crucially, Section 21 of the SCR Act establishes the listing condition: compliance with the listing agreement between the stock exchange and the firm. As a result, the listing agreement becomes the primary tool for the regulation and governance of securities trading. Other circumstances for material information disclosure are outlined in Rule 19of the SCR Rules.

It is obvious from these rules that, rather than resolving market inconsistencies, securities legislation seeks to increase investor trust in the market. The stock market aims to attract new investors by enforcing restrictions such as the disclosure of significant information. This, in turn, leads to an increase in market transactions, which leads to savings being transformed into investments. For example, Clause 49 of the Listing Agreement[7] provides for improved corporate governance by controlling the composition and behaviour of listed businesses' boards of directors.

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[3] Raymond Synthetics Ltd. v. Union of India 1992 (1) BomCR 133
[4] Stock Exchange Board of India
[5] K. Balasumbramanian, Delisting of Securities under SEBI™s New Guidelines- An Overview, Vol. 45, Sebi & Corp. Laws 77 (2003)
[6] S. 2(j), Securities Contracts (Regulation) Act, 1956.
[7] Clause 49, Listing Agreement for Equity Shares

Such a clause cannot potentially eliminate any underlying market imperfections; rather, it concentrates on transparency from the perspective of investors. Thus, the ultimate goal of regulatory compliance is to increase stock market investments by making it more investor friendly.[8]

3. Listing

The admittance of securities to trading on a recognized stock exchange is referred to as listing. Any public limited firm, Central or State Government, quasi-governmental and other financial institutions/corporations, municipalities, and so on may issue securities.

4. The objectives of listing are mainly to:

- offer liquidity to securities;
- mobilize savings for economic development; and
- protect investors' interests through full transparency.

If a company wishes to list its securities on the Exchange, it must file an application in the prescribed form with the Exchange before issuing a prospectus or before issuing a 'Offer for Sale' if the securities are issued by way of an offer for sale.

5. Rules and guidelines for listing of securities:

Securities Contract (Regulation) Act, 1956.
S. 21. of the Act deals with the listing of the public companies.

Securities Contract (Regulation) Rules 1957.
S. 19 of the Act deals with the requirements and documents to be submitted with respectto the listing of securities on a recognized stock exchange and i.e.

a) Memorandum and articles of association and, in case of a debenture issue, a copy of the trust deed.
b) Copies of all prospectuses or statements in lieu of prospectuses issued by the company at any time.

[8] SEBI Circular No. SEBI/CFD/DIL/CG/1/2004/12/10, on Corporate Governance in Listed Companies.

c) Copies of offers for sale and circulars or advertisements offering any securities for subscription or sale during the last five years.

d) d) Copies of balance sheets and audited accounts for the last five years, or in the case of new companies, for such shorter period for which accounts have been made up.

e) A statement showing-

(i) Dividends and cash bonuses, if any, paid during the last ten years (or such shorter period as the company has been in existence, whether as a private or public company).

(ii) Dividends or interest in arrears, if any.

f) Certified copies of agreements or other documents relating to arrangements with or between: -

(i) Vendors and/or promoters,

(ii) Underwriters and sub-underwriters,

(iii) Brokers and sub-brokers.

g) Certified copies of agreements with-

(i) Managing agents and secretaries and treasurers,

(ii) Selling agents,

(iii) Managing directors and technical directors,

(iv) General manager, sales manager, manager or secretary.

h) Certified copy of every letter, report, balance sheet, valuation contract, court order or other document, part of which is reproduced or referred to in any prospectus, offer forsale, circular or advertisement offering securities for subscription or sale, during the last five years.

i) A statement containing particulars of the dates of, and parties to all material contracts, agreements (including agreements for technical advice and collaboration), concessions and similar other documents (except those entered into in the ordinary course of business carried on or intended to be carried on by the company) together with a briefdescription of the terms, subject-matter and general nature of the documents.

j) A brief history of the company since its incorporation giving details of its activities including any reorganization, reconstruction or amalgamation, changes in its capital structure (authorized, issued and subscribed) and debenture borrowings, if any.

k) Particulars of shares and debentures issued (i) for consideration other than cash, whether in whole or part, (ii) at a premium or discount, or (iii) in pursuance of an option.

l) A statement containing particulars of any commission, brokerage, discount or other special terms including an option for the issue of any kind of the securities granted to any person.

m) Certified copies of-
i) letters of consent of the Controller of Capital Issues

n) A list of highest ten holders of each class or kind of securities of the company as on the date of application along with particulars as to the number of shares or debentures heldby and the address of each such holder.

o) Particulars of shares or debentures for which permission to deal is applied for:

6. Companies Act, 1956

According to Section 73 of the Companies Act of 1956, a company wanting to list its securities on a stock exchange must submit a Letter of application to all stockexchanges where it intends to list its securities before submitting the prospectus with the registrar of companies.

7. SEBI Guidelines

- A corporation must complete the allotment of securities offered to the public within 30 days of the subscription list's closure date and apply to the authorizedstock exchange for approval of the basis of allotment.

- The issuer company must complete the requirements for trading at all stock exchanges where the securities will be listed within 7 working days of the basisof allotment being finalized.

○ Before the issue price, companies issuing public/rights issues must deposit 1% of the issue amount with the approved stock exchange.

8. Stock Exchange guidelines

In addition to all of these rules, regulations, and compliance, each stock exchange has its own setof standards for companies who want to be listed on it. They may, for example, specify the minimum issue size and the company's market capitalization.

Before a company may be listed on the exchange, it must first sign a listing agreement. Under thisagreement, the company agrees to provide facilities for prompt transfer, registration, sub-division,and consolidation of securities, as well as to give proper notice of the closure of transfer books andrecord dates, to forward 6 copies of unabridged Annual reports, balance sheets, and profit and lossaccounts, to file shareholding patterns and financial results on a quarterly basis, and to notify the exchange promptly of any events that are likely to occur.

Every fiscal year, the corporations must additionally pay the exchange a listing fee as determinedby the exchange.

If a firm fail to meet these rules, it may face disciplinary action, including the suspension or delisting of its securities.

If the exchange does not grant the company permission to list securities, the company cannot proceed with the share allotment. However, the company may submit an appeal with SEBI underSection 22 of the SCRA of 1956.

A firm that has been delisted by a stock exchange and wishes to relist on the same exchange mustconduct a new public offering and follow the exchange's current standards.

9. Delisting

Delisting is the process of removing a company's listed securities from the stock market. According to the SEBI Delisting Guidelines for Equity Shares, 2009, delisting can be voluntary or involuntary. Delisting undermines investor confidence because it contradicts what was promised in the company's prospectus.

10. Voluntary Delisting And Economic Implications

Voluntary delisting refers to a corporation voluntarily withdrawing its shares from the stock exchange. It is usually done when the company suffers economic losses. If the expense of enlistment outweighs the risk of losses, or if the business's securities are hardly traded, the company may choose to delist its securities. In contrast, if the firm is producing large profits, it may choose to delist in order to consolidate its funds rather than divide them among investors. Although it may appear unfair to investors that they are losing out on profitable securities, it wouldbe problematic to erect hurdles to corporate exit (which could result in only a few firms listing on the stock exchange).[9] Before proceeding with the formalities of delisting, the Company is always given a fair hearing.[10] There are rules in place for voluntary delisting. To begin, the Company's promoter must make the notification for such an exit in a public hearing. The timetableand manner of evacuation must be specified.[11] Second, such delisting can only take place if thedecision is authorized by the investors. A postal ballot procedure has been devised in which votesfor such delisting must outnumber votes against delisting by more than two to one.[12] Third, the investors must be granted a mandatory departure price. Surprisingly, the promoter must pay this departure payment, not the company.[13] As a result, the 2009 Guidelines carefully protected investors' interests. It is obvious that public consensus is critical. Furthermore, the promoter is penalized for the delisting. As a result, although the company earns, the promoter must bear the loss of delisting. This appears to be harsh and unjust.

11. Compulsory Delisting And Economic Implications

Compulsory delisting happens usually in two types of scenarios:

a.) a.) The first scenario concerns the stock exchange's connection with publicly traded corporations. When certain regulations are not followed, the corporation is delisted. Schedule III of the National Stock Exchange's (NSE) Listing Agreement, for example, codifies rules for paying listing fees to the exchange. If no payment is made to the stock market, there is no financial incentive to list the company. The listing fees are a significantsource of revenue for the stock exchanges.[14] It would be costly for them to continue tolist such companies' securities. The

[9] Para 4.9, Pratip Kar Committee Report.
[10] CSR Act, Section 21A
[11] Rule 10(1), 2009 Guidelines
[12] Rule 8, 2009 Guidelines
[13] Rule 4[4], 2009 Guidelines
[14] Para 5.1, Chandratre Committee Report.

SEBI Guidelines also include a requirement for a minimum trading level in Schedule III. It is argued that delisting for violations of such rules is economically justified for the stock exchange: the operation of the securities market should not result in a loss for the stock exchange.

b.) The second type of scenario concerns information disclosure by publicly traded corporations. Companies may be delisted if the laws governing information disclosure arenot followed. This is significant since the goal of the secondary market is to ensure that material information is disclosed to securities holders in order to improve market efficiency.

In the event of compulsory delisting, an aggrieved party has 15 days to file a lawsuit. Thisperiod may be extended to a month; anyone may launch a suit, even the company itself orits investors. In addition, in the event of compulsory delisting, an independent valuer determines the fair value of the shares.[15] As a result, investors are given enough chanceto file claims against mandatory delisting. However, the interests of the stock exchange seem to be the primary aim of compulsory delisting.

6. Conclusion

Violation of the rules for listing and delisting procedures carries a maximum fine of Rs. 25 crores and/or a year in prison. Although some corporations can afford such a loss, it appears to be a deterring factor for market participants. The process of listing securities ismore concerned with increasing trade volume in the securities market than with fixing itsflaws. This is especially true in the case of voluntary delisting, in which loss-making firmscan delist their shares to pump in additional losses. However, investor protection must beensured in this area to prevent corporations from taking unfair advantage and engaging inunfair practices. The concept of mandatory delisting appears to be viable as well, as it protects the interests of both the exchange and the investors in question. As a result, the SEBI Guidelines appear to find a balance between investor opinion and firm regulation.[16]

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[15] Rule 23(1), 2009 Guidelines
[16] Section 23(1) SCR Act