

SEBI Takeovers Regulations, 2011 and M&A implications

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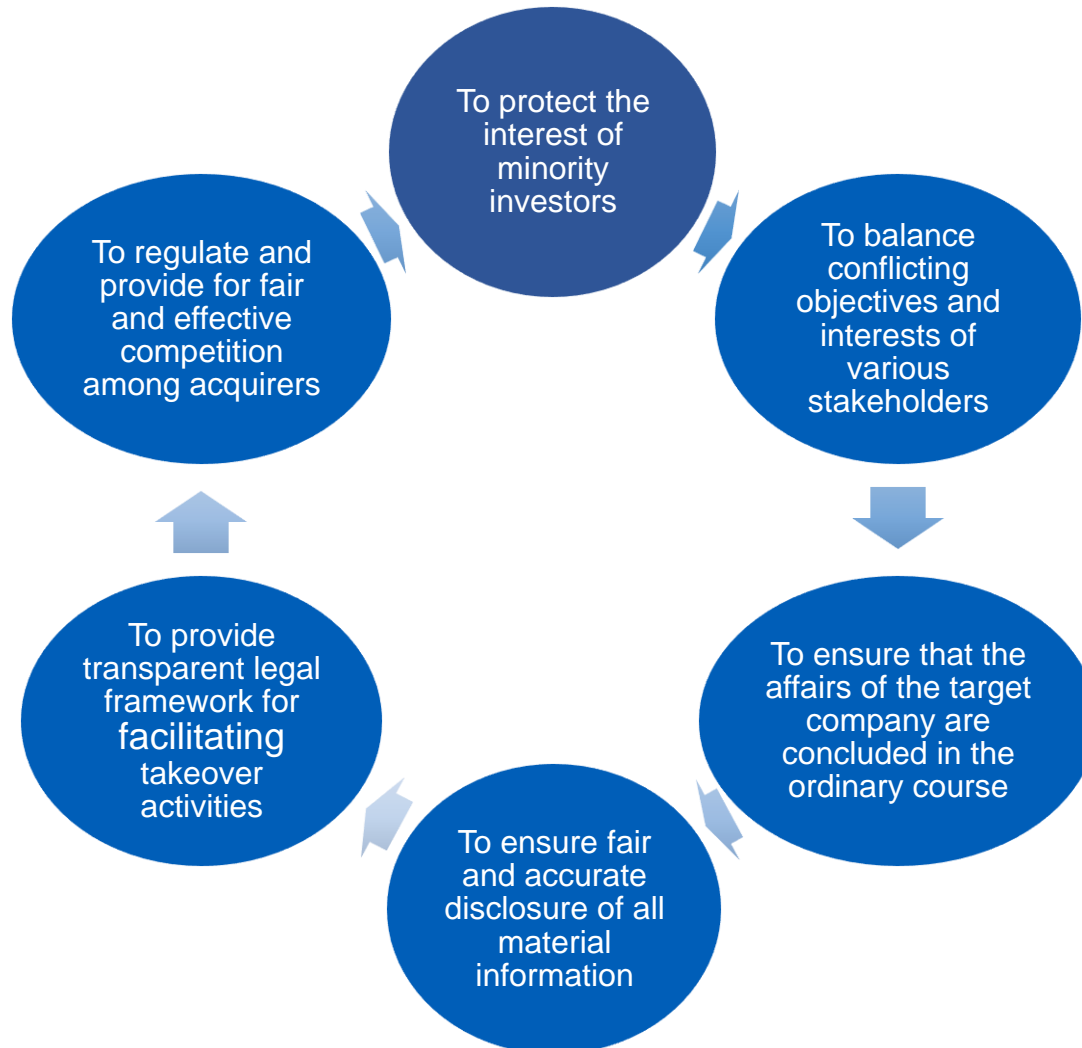
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Basics aspects of Takeover Regulations

Need/ Objective of Takeover Regulations



Key Definitions

Acquirer – R. 2(1)(a)

- Any person who, **directly or indirectly, acquires or agrees to acquire** whether by **himself**, or through, or with **persons acting in concert** with him, **shares or voting rights in, or control** over a target company (listed entity)

Control- R. 2(1)(e)

Includes:

- Right to appoint majority of directors
- **Control management and policy decisions** exercisable as persons or persons acting in concert, directly or indirectly by virtue of their
 - Shareholding or management rights
 - Shareholders' agreement
 - Voting agreements
 - Any other manner

Shares - R. 2(1)(v)

- Shares in the **equity share capital** of a **target company** carrying voting rights, and includes **any security** which entitles the holder thereof to exercise voting rights.
- Shares will include **all depository receipts** carrying an entitlement to exercise voting rights in the target *company*.

Case Study - Type of Shares

No.	Issue of Instrument (Without voting Rights at the time of issue)	Whether Take Over Regulations Triggered
1	CCPS/OCPS	On conversion/ Accrual of voting rights
2	CCDs	On conversion to equity shares
3	GDR/ADR	On conversion to equity shares
4	RPS	No
5	Issue of Warrants	No
6	Conversion of warrants into equity	On conversion to equity shares
7	Call option to the buyer	On exercise of option
8	Put option to the seller	On the date of agreement

SEBI Discussion paper on Acquisition of Control

SEBI has released a discussion paper on 13th March, 2016 on brightline test for acquisition of control which provides the following two options of determining control:

- Framework for protective rights- Acquisition of control would be determined based on acquisition of participative rights by the investor. Acquisition of protective rights would not amount to acquisition of control
- Adopting a numerical threshold- Control would be acquisition of 25% voting rights in the company or a right to appoint majority non independent directors

Pros and Cons of the above two options:-

Option 1- It would continue to be a public shareholder and acquisition of the said rights would not amount to acquisition of 'control' under the Takeover Regulations, 2011. However, this approach may lead to further complexities in assessment of control and lead to ambiguity in interpretation

Option 2- The acquisition of control through other means such as special rights, etc. would not necessitate an open offer requirement under the Takeover Regulations. However, it would reduce the uncertainty in the assessment of acquisition of 'control' and bring clarity

Definition of 'control' under the Takeover Regulations may be amended as under:

“(a) the right or entitlement to exercise at least 25% of voting rights of a company irrespective of whether such holdings gives de facto control

and/or

(b) the right to appoint majority of the non-independent directors of a company.”

Key Definition – Person Acting in concert

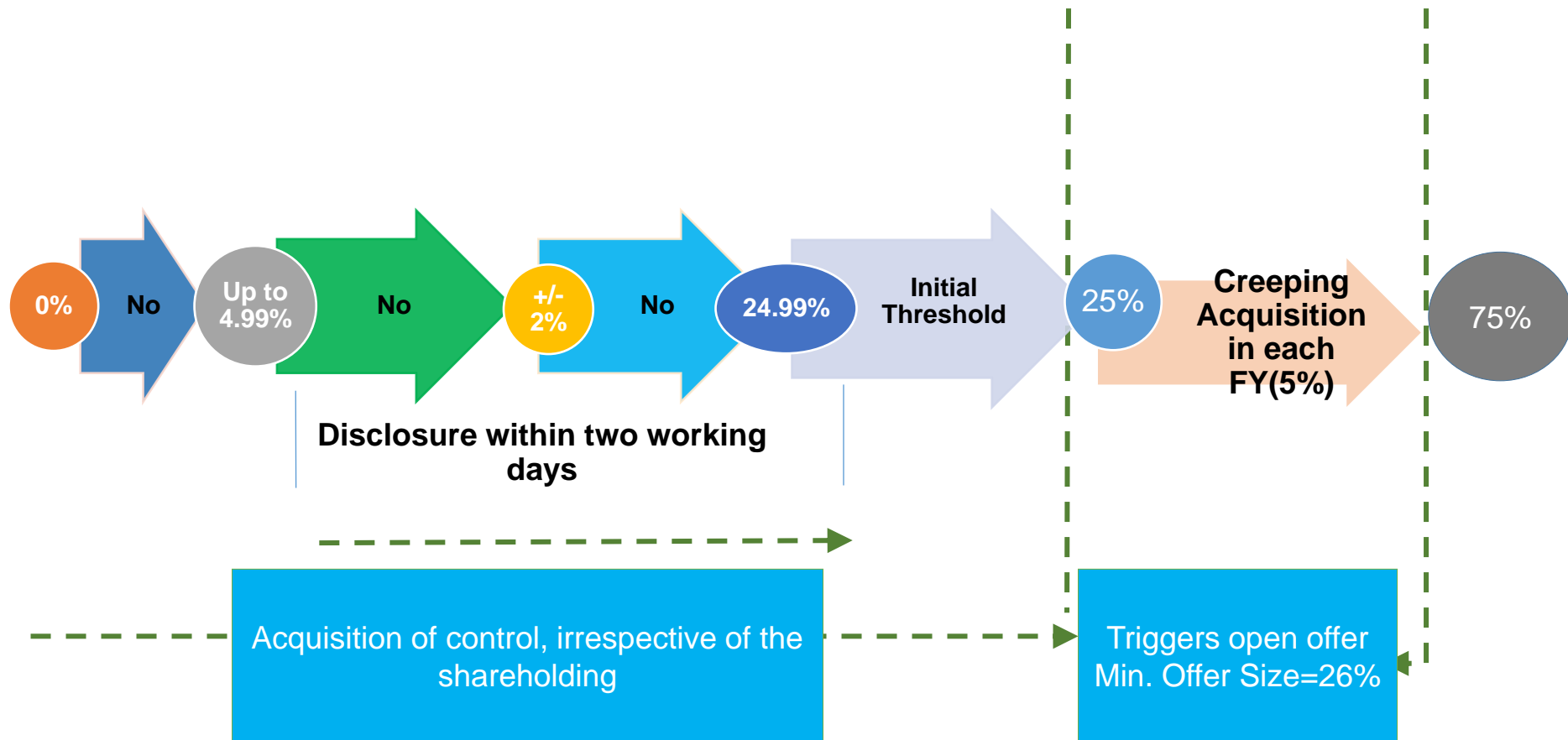
Person acting in Concert (PAC) – R. 2(1) (q)

Persons with a common objective or purpose of acquisition of shares or voting rights in, or exercising control over a target company, pursuant to an agreement or understanding, formal or informal, directly or indirectly co-operate for acquisition of shares or voting rights in, or exercise of control over the target company

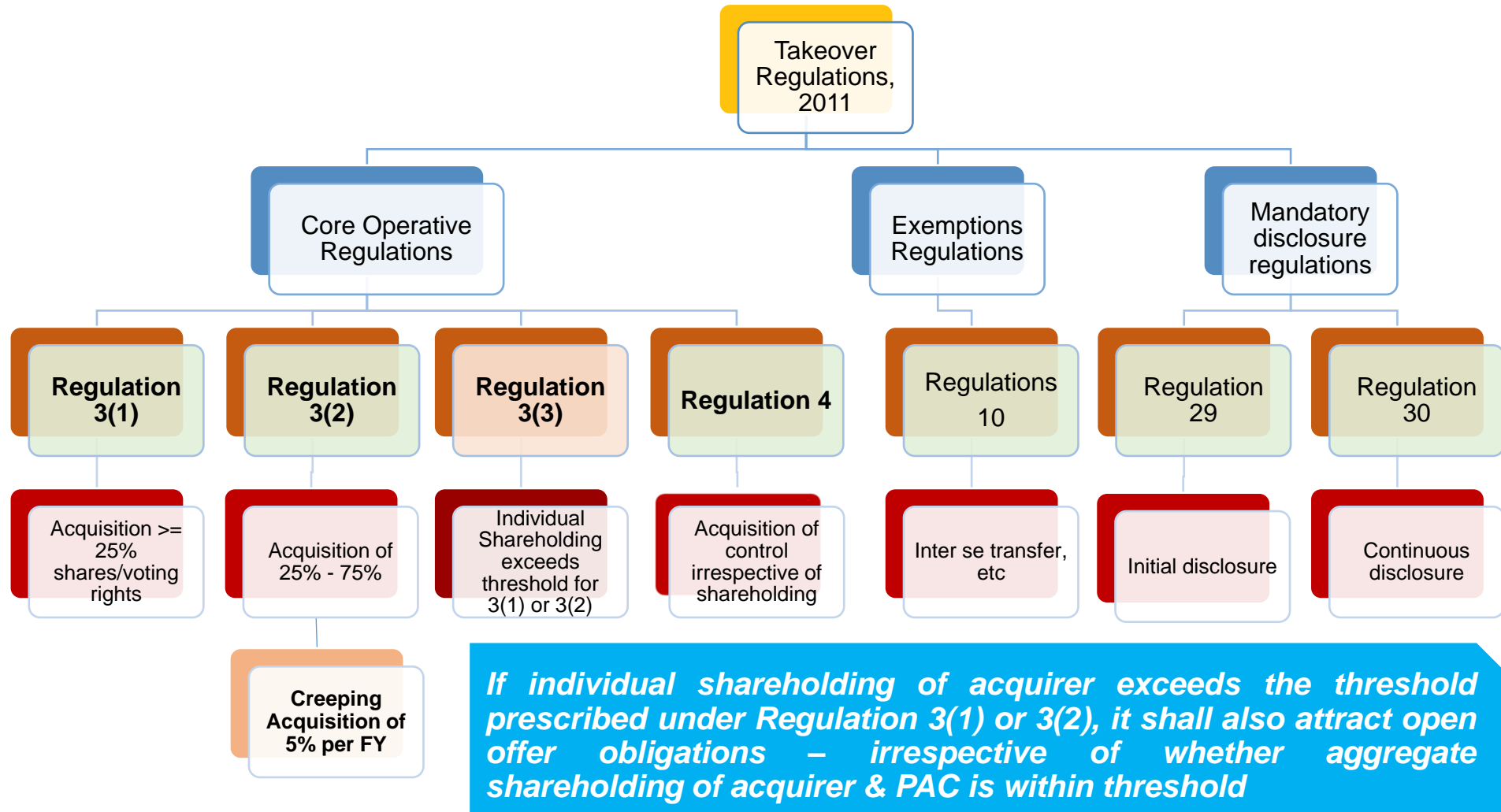
Deemed PAC

- A company, its Hold co, sub company and any company under same management or control
- Its directors, and any person entrusted with the management of the company
- Directors of above companies and associates of such directors
- Promoter and member of Promoter group
- Immediate relatives, Merchant banker and its client, Portfolio manager and its client
- Mutual Fund, its sponsor, trustees, trustee company, AMCs, CIS , CIMC , trustees and trustee company
- Venture Capital Fund, its sponsor, trustees, trustee company and AMC
- FIs and its sub – accounts, Banks, financial advisors and stock brokers of the acquirer
- Any investment company or fund and any person or his associate who holds not less than 10% of the paid-up capital of such company or fund

When Open offer would trigger? (Regulation 3)



Key Regulations



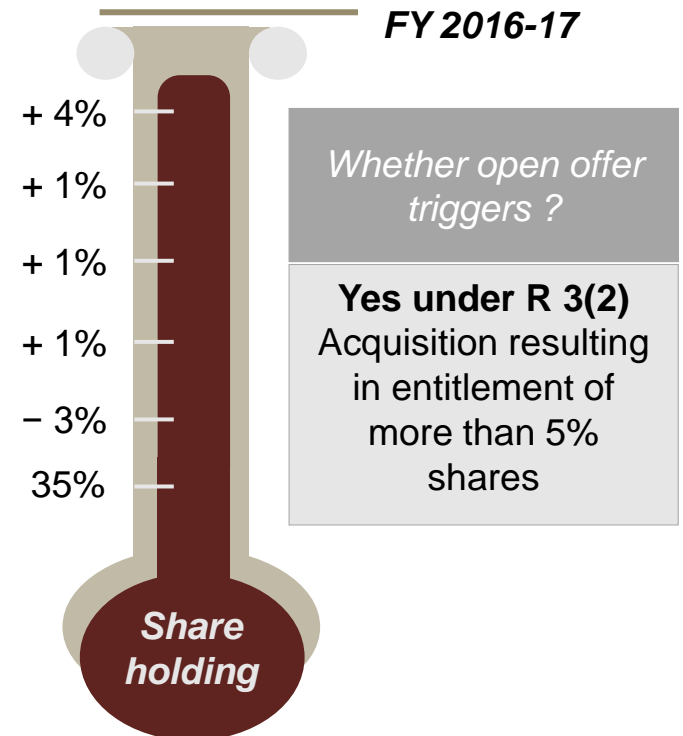
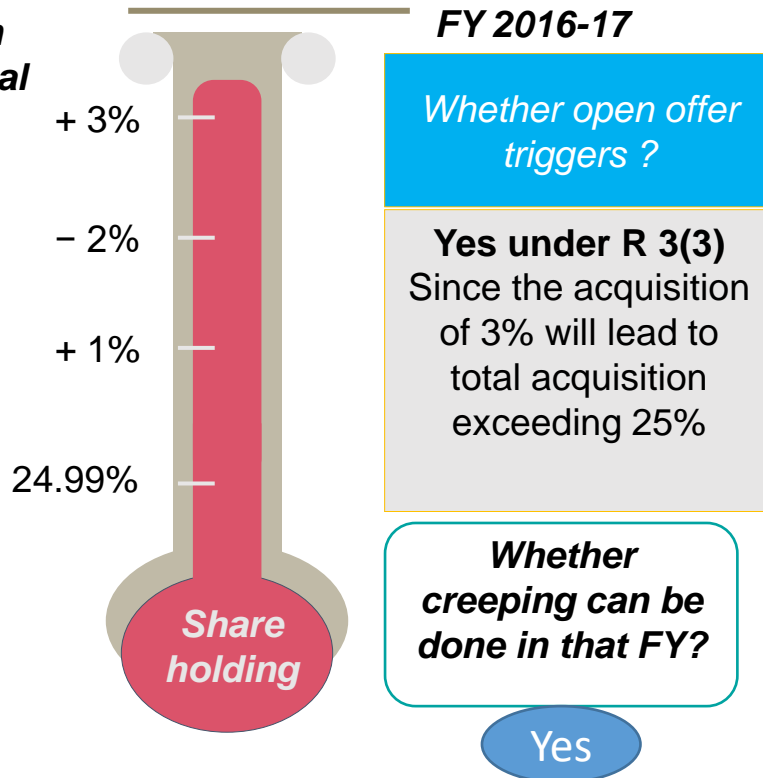
When Open offer would trigger? (Regulation 3)

Scenario	Existing holding of Acquirer	Acquired / disposed off during the FY 2016- 17	Whether Disclosures Required	Whether Open offer trigger
1	0%	2%	No	No
2	0%	4.5%	No	No
3	0%	6%	Yes	No
4	5%	8%	Yes	No
5	5%	7.99%	Yes	No
6	5%	22%	Yes	Yes
7	32%	5%	Yes	No
8	40%	6%	Yes	Yes
9	31%	(8)% sale + 4%	Yes	Yes
10	24%	0.99%	No	No
11	24.99%	1%	No	Yes

Determination of Quantum of acquisition - Creeping Acquisition

- Only **gross acquisitions** should be considered-
 - any intermittent fall in shareholding **should not** be taken into account -
 - disposal of shares; or
 - dilution pursuant to fresh issue of shares
- In case of preferential allotment to the acquirer
 - difference between post-allotment percentage voting rights and pre-allotment percentage voting rights shall be regarded as quantum of additional shares

**Acquisition
by Individual
promoter**



Case Study - Whether open offer would trigger?

Step	A - (23%)	B-(1%)	Total (24%)
1A	2	-	2%
Total	25%	1%	26%
1B	-	3%	3%
Total	25%	4%	29%
1C	1%	-	1%
Total	26%	4%	30%

Step	A - (23%)	B-(1%)	Total (24%)
2A	-	3%	3%
Total	23%	4%	27%
2B	3%	-	3%
Total	26%	4%	30%

No	Scenario	Whether Open Offer Triggered?
Scenario 1		
1A	On acquisition of 2% shares by A?	Yes- R. 3(1) and R 3 (3)
1B	Post acquisition in 1A, acquisition of 3% shares by B?	No- R. 3(2) (Creeping)
1C	Post acquisition in 1B, acquisition of 1% shares by A?	No - R. 3(2) (Creeping)
Scenario 2		
2A	On acquisition of 3% shares by B	Yes R 3 (1)
2B	Post acquisition in 2A, On acquisition of 3% shares by A	R 3 (2) (Creeping exemption) or R 3(3) Open offer?

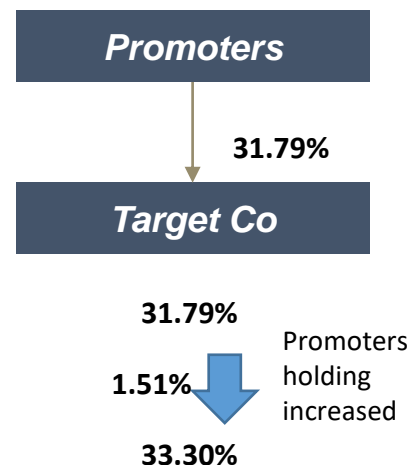
Case Study - Computation of Creeping Acquisition Limit

Relevant Facts:

- FY 2012-13 – the promoters have acquired additional shares aggregating to **1.51%** of current capital.
 - Post these additional acquisition, the promoters holding increased to 33.30%.
- Post QIP, promoter holding reduce from **33.30% to 22.13%**.
- Target Co. is considering simultaneous preferential allotment to promoters for the balance 3.49% (under Reg 3(2))

Clarification Sought

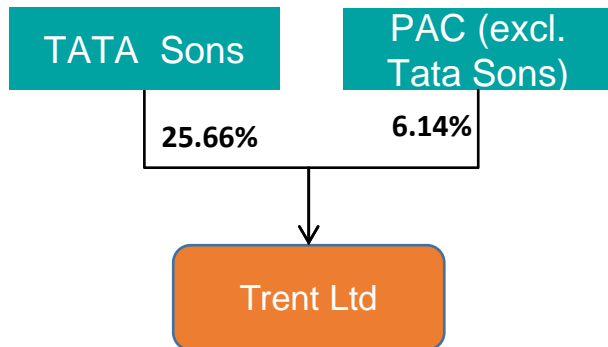
- Whether the balance of the creeping acquisition limit i. e 3.49% can be on the basis of enhanced equity share capital i. e **assuming full subscription to QIP and proposed preferential allotment?**



- The remaining 3.49% limit in terms of R.3(2) would be calculated with respect to the enhanced post allotment of the equity share capital i.e considering share capital after the proposed QIP and preferential allotment.

Informal guidance of Alok Industries Ltd (August 2012)

Case Study : Mandatory Open Offer (Reg 3)



Facts :

- Pursuant to QIP issue, shareholding of Tata Sons falls to 23.08% and PAC reaches 5.52%.
- Tata Sons Ltd and PAC intend to acquire shares in Trent Ltd which would increase their shareholding as under:
 - Tata Sons – from 23.08% to 26.86% (i.e 3.78)
 - PAC (incl. Tata Sons) – From 28.6% to 32.89% (i.e 4.29)

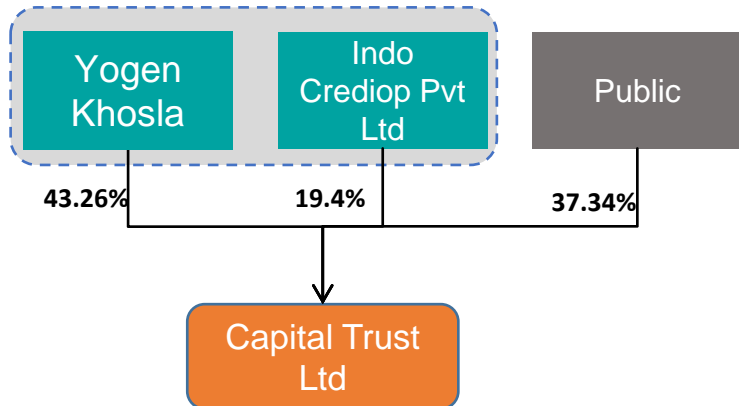
Steps	Particulars (holding)	Tata Sons	PAC (including Tata)
1	Prior to QIP Issue	25.66%	31.8%
2	Post QIP Issue	23.08%	28.6%
3	Post CCPS Conversions	23.71%	29.36%
4	Post Preferential Allotment	26.86%	32.89%

- Whether open offer triggered under regulation 3(1) and 3(3) post preferential allotment being crossing 25% ? **No**
 - SEBI order - Dilution occurred due to QIP and not due to sale
- If no, then will creeping acquisition limit be considered for reg. 3(2)? **yes**

Had the acquisition, ignoring the fall due to QIP, been more than 5 %, would open offer under Reg 3(2) be triggered? - **yes**

Tata Sons Limited – SEBI Order (Oct 2012)

Case Study : Mandatory Open Offer (Reg 3 (2))



Name	Pre allotment	Post Allotment (incl ESOP)	Post Allotment (excl ESOP)
Yogesh Khosla	43.26%	48.26%	50.79%
Indo Crediop	19.40%	15.98%	16.82%
ESOP Trust	-	5%	-

Facts of the case:

- Yogesh Khosla to convert its warrants into shares
- Simultaneously, company propose to issue shares to ECOP trust pursuant to ESOP Scheme

- Whether shares allotted to ESOP Trust would be taken into consideration as increased no. of shares for calculation of conversion of warrants into equity? **No**
- Whether Open Offer will trigger? **yes**

Informal guidance in the matter of Capital Trust (December 2016)

SEBI held that since the trustees of the ESOP trust are not entitled to vote, shares under ESOP Scheme to be excluded while calculating % of voting rights under the Takeover Regulations

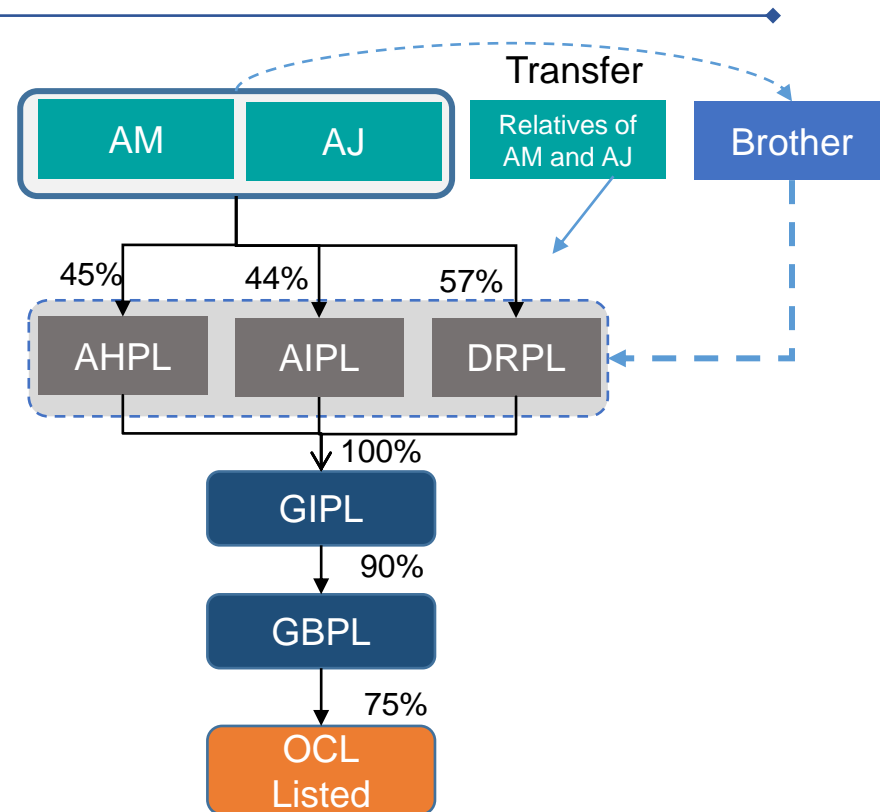
Case Study - Regulation 4

Facts of the case:

- GBPL is owned by GIPL
- GIPL is owned by 3 entities
- AHPL, AIPL and DRPL are owned by AM and AJ along with relatives as PAC
- It was proposed to transfer shares held by AJ and AM in AHPL, AIPL and DRPL to their brother

Query:

- Whether transfer of all the shares of AHPL, AIPL and DRPL from AJ and AM to their brother, (immediate relative) would trigger an open offer under Regulation 3 and 4?



- Brother together with PAC would be acquiring indirect control over the Target Co and would thereby attract the provisions of governing mandatory open offer
- The transferors and transferee, being immediate relatives are qualified persons and are thereby exempt – 10(1)(a)(i) with necessary disclosures

Informal Guidance - OCL Iron and Steel (March 2013)

Deeming provisions under indirect acquisition (Regulation 5)

- **Acquisition of shares** in any entity which enables exercise or direct the exercise of voting rights or control of the target company
- An indirect acquisition **shall be deemed as direct acquisition if**
 - The proportionate NAV value of the target company as a percentage of the consolidated NAV of target entity
 - The proportionate sales turnover of the target company as a percentage of the consolidated sales turnover of target entity **or**
 - The proportionate market capitalization of the target company as a percentage of the enterprise value of target entity

is in excess of 80% of the target company

Cumulative
Conditions ?
or any 1 ?

$$\frac{100}{120} = 83.33\% \checkmark$$

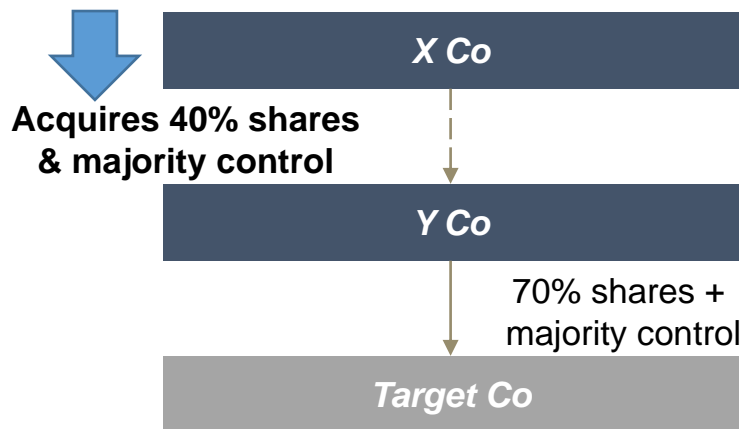
$$\frac{800}{1100} = 72.72\% \boxtimes$$

$$\frac{1000}{1500} = 66.66\% \boxtimes$$

As per recommendation of Takeover regulation Advisory Committee (Feb 2011) - **Any one of above the conditions**

Case Studies: Regulation 5

Illustration 1



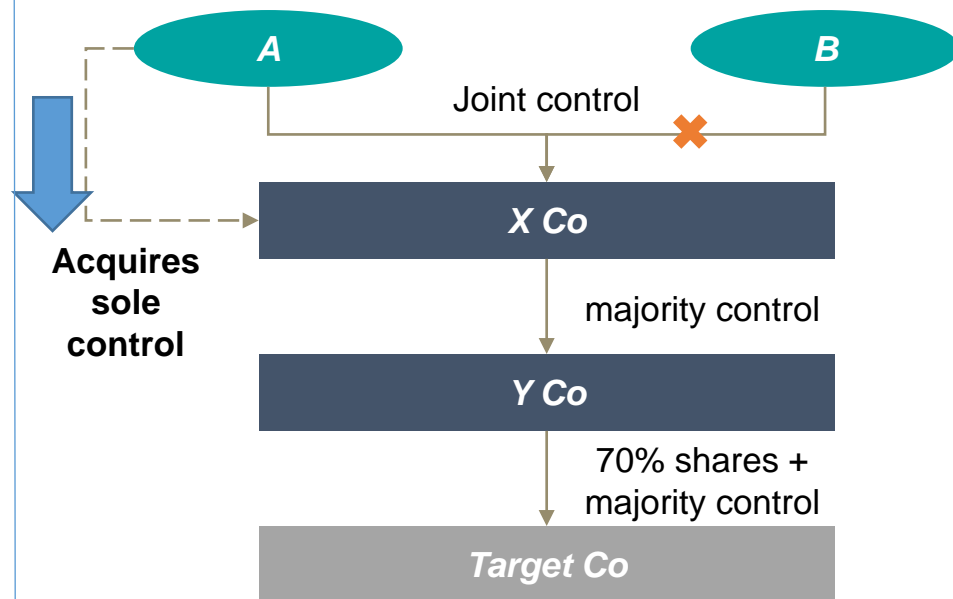
Whether Open offer triggers ?

Yes, X in effect acquires control on 70% shares of Target Co

What if X Co further acquires additional 10% of Y Co?

X in effect does not acquire control on any shares in addition to 70%
Hence, further open offer not required

Illustration 2



Whether Open offer triggers ?

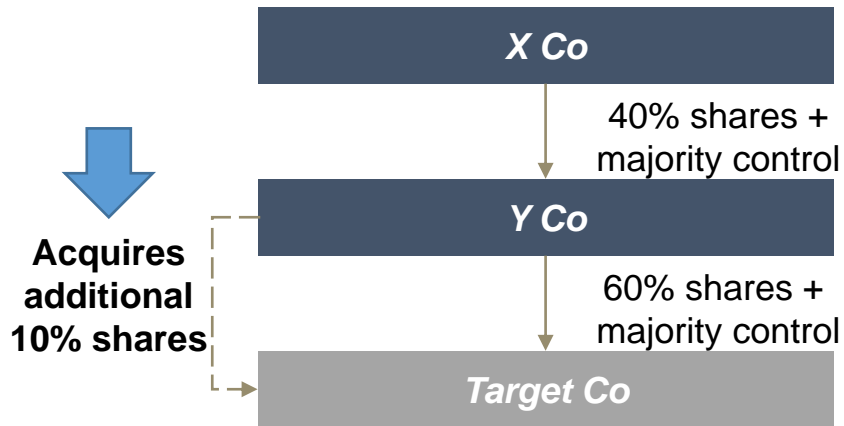
Yes, A in effect acquires sole control in Target Co

FAQ's clarified

Thresholds in case of indirect acquisition is computed on the basis of **voting rights and/or control acquired** in the target company and **not on pro-rata basis**

Case Studies: Regulation 5

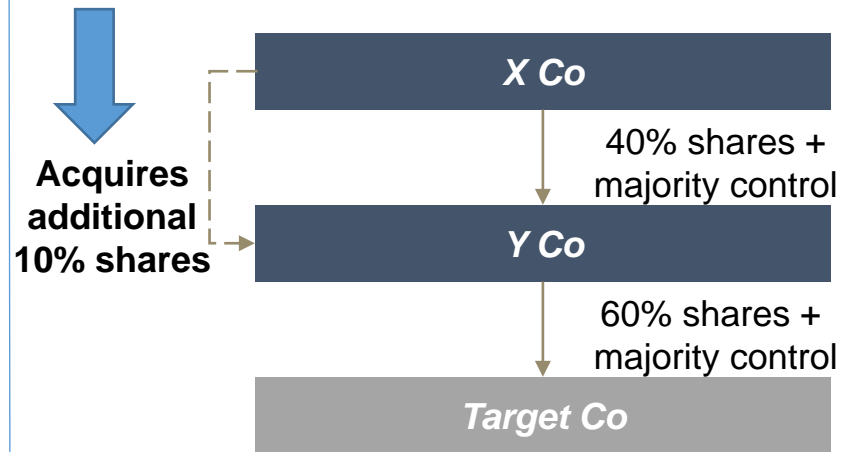
Illustration 3



Whether Open offer triggers on Y Co?

Yes, Y acquires 10% additional voting rights in the Target Co

Illustration 4



Whether Open Offer Triggers?

Open offer does not trigger on X Co

X in effect does not acquire any additional voting rights in the Target Co

Voluntary Offer - Regulation 6

The acquirer holding 25% or more voting rights in the target company can make a voluntary offer for at least 10% of the total shares of the target company.

Total shareholding of the acquirer post open offer should not exceed 75% in the target company. if it exceeds 75%

- Require to bring down the non-public shareholding upto 75% within the prescribed period; and
- Acquirer will not eligible to make a voluntary delisting offer for a period of 1 year

The acquirer should not have acquired shares of the target company in the preceding 52 weeks without attracting open offer obligation.

The acquirer is not entitled to acquire further shares of the target company for a period of 6 months after completion of offer, except as a result of another voluntary open offer or participation in a competing offer

General Exemptions

General Exemption from Open Offer

REGULATION 10(1)

- Inter se Transfer
- Acquisition in the ordinary course of business
- Disinvestment agreement
- BIFR and Merger Schemes
- SARFAES, Delisting
- Transmission, succession or inheritance
- Section 87(2) of Cos Act, 1956
- Conversion of debt into equity under SDR
- Increase in voting rights arising out of operation of section 106 of the Cos Act, 2013

REGULATION 10(2)

- Corporate Debt Restructuring Scheme
- Conditions
 1. No change in control
 2. Shareholders Approval by way of Special Resolution passed by Postal Ballot

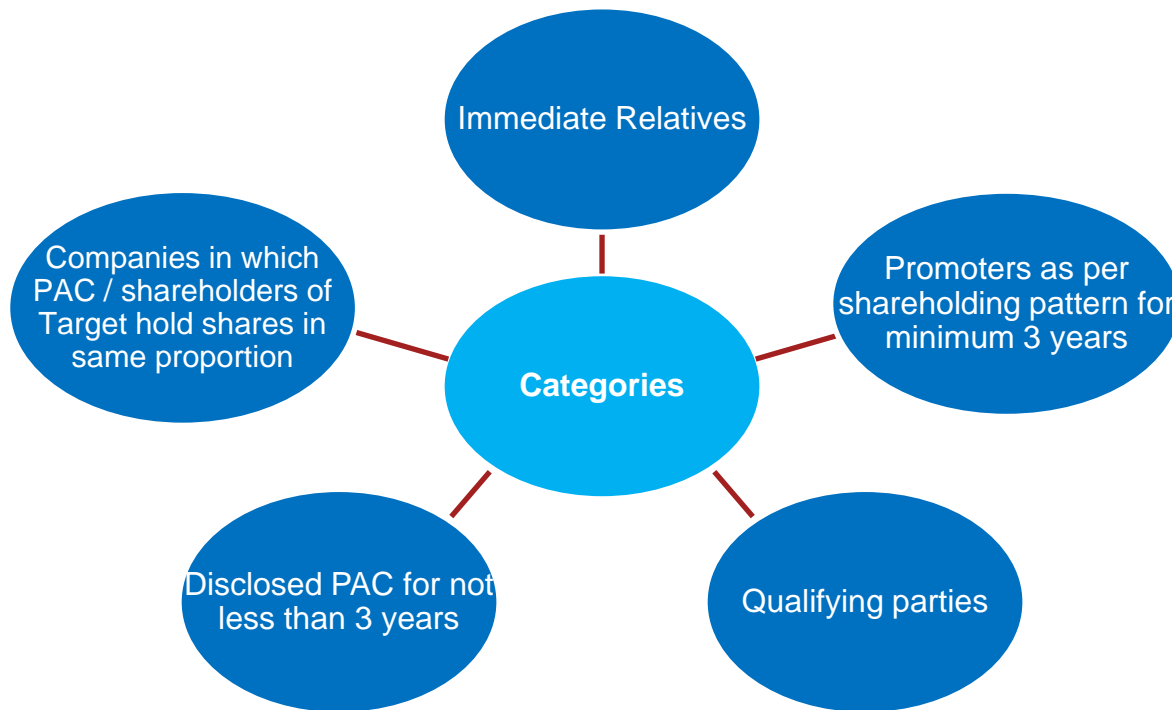
REGULATION 10(3)

- Buy Back resulting in shareholding exceeding 25% under Regulation 3(1), provided that shareholding brought to below 25% within 90 days

REGULATION 10(4)

- Right Issue
- Buy Back
- Acquisition from state-level financial institutions by promoters
- Acquisition from a venture capital fund or a foreign venture capital investor by promoters

Categories of Inter Se Transfer Reg 10(1)(a)



Frequently traded:

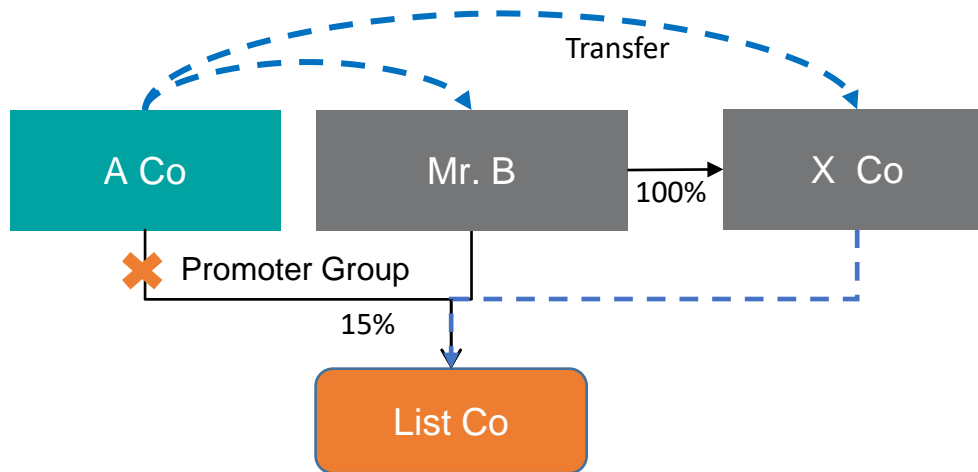
Shares of a Company in which the traded turnover on any SE during the 12 calendar months preceding the calendar month in which PA is made, is atleast 10% of the total no. of such class of shares

Conditions to be satisfied to eligible for above exemption:

The acquisition price per share shall not be higher by more than:

- Frequently Traded – 25% of volume weighted average market price for a period of 60 trading days
- Infrequently Traded – 25% of the price determined by the acquirer and manager to the open offer taking into account valuation parameters including book value, comparable trading multiples and other parameters for valuation of shares
- Transferor and transferee should comply with applicable disclosure requirement

Case Study - Reg. 10(1)(a)(ii) exemption



Facts of the case:

- A Co and Mr. B are promoters in the List Co for more than 3 years
- Mr. B holds 100% in X Co

1. Whether Transfer of shares of List Co from A Co to Mr. B be eligible for exemption?

Yes

2. Whether Transfer of shares of List Co from A Co to X Co be eligible for exemption?

No

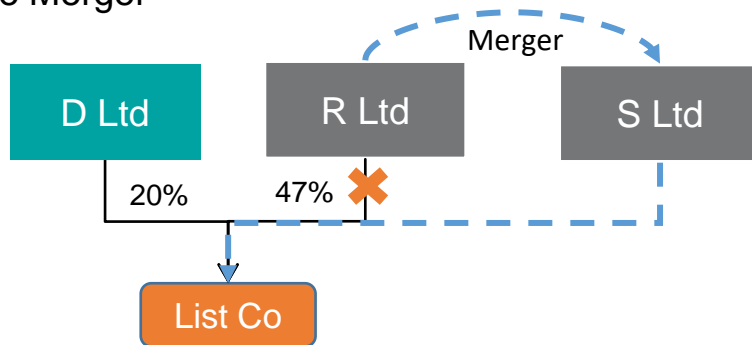
3. Whether transfer of shares from A Co to X Co be eligible for exemption, if

(a) Mr. B holds 20% in A Co – No

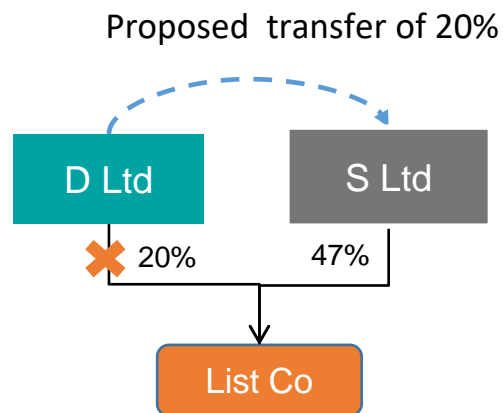
(a) Mr. B holds 60% in A Co – Yes under Regulation 10 (1) (a) (iii)

Case Study - Reg. 10(1)(a)(ii) exemption

Pre Merger



Post Merger



Facts of the case:

- D Ltd and R Ltd were promoters for more than 3 years in List Co
- R Ltd merged into S Ltd with appointed date April 1 2014
- Effective date of merger– March 24, 2015
- List Co shown S Ltd as promoter from March 31 2015.

Post Merger:

D Ltd intends to transfer shares to S Ltd

Whether Transfer from D Ltd to S Ltd be eligible for exemption u/s 10 (1) (a) (ii)?

No

Informal guidance in the matter of Zenotech Laboratories Ltd – June 2016

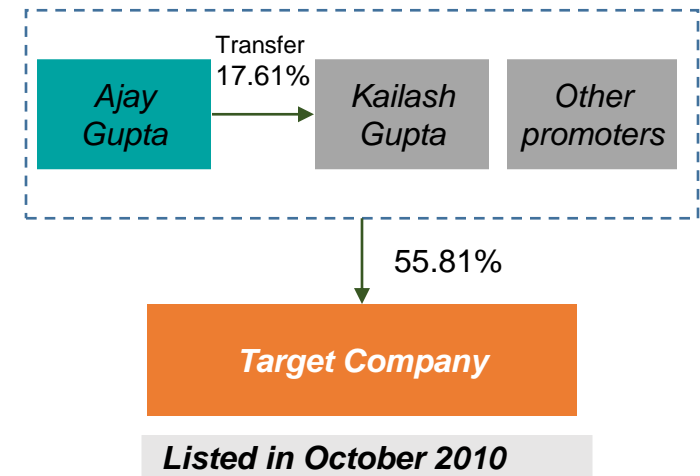
Case Study - Reg. 10(1)(a)(ii) exemption

Relevant Facts:

- The promoters hold 55.31% shares in the target company
- Mr. Ajay Gupta, promoter holds 20.53% shares in the target company wants to transfer 17.61% shares to Mr. Kailash Gupta, his father in law
- The company got listed in October 2010.
- However, AG and KG are holding the shares in the company since 2005 as a promoter
- AG intended to transfer the shares on October 1, 2012

Clarification sought

- Whether the proposed transfer will be exempt under Regulation 10(1)(a)(ii) of the Takeover Code?

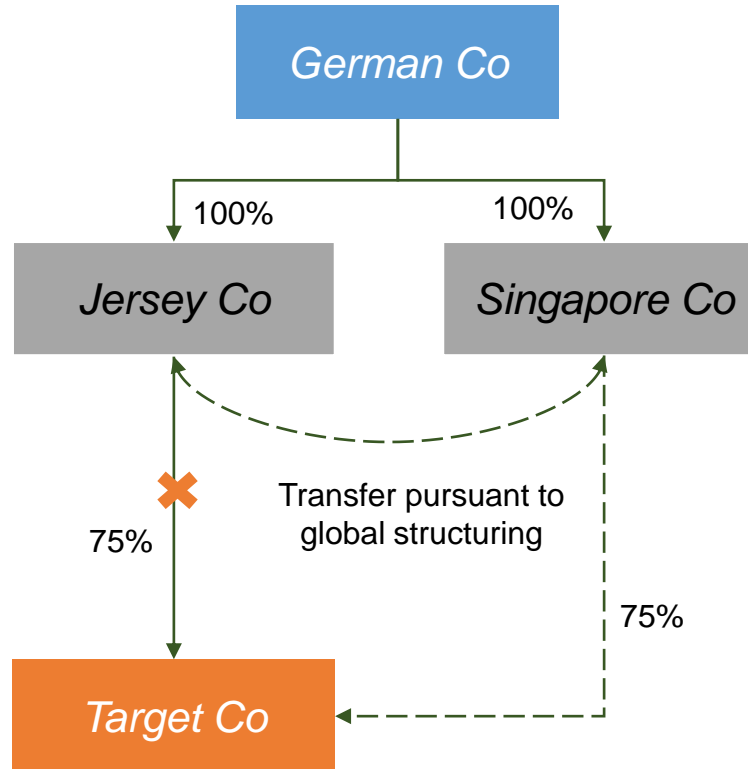


SEBI's view: in the informal guidance to Commercial Engineering, dated December 5, 2012

(i) No since both the above individuals have been disclosed as promoters for a period of only 2 years

Similar view taken in Informal Guidance dated 31 October 2014 in the matter of Future Corporate Resources Limited

Case Study - Reg. 10(1)(a) exemption



Singapore Co and Jersey Co are WOS of the same German Co and acquisition is a result of inter se transfer of entire equity interest from one of its subsidiary to the other. Hence, the said acquisition will fall within the general exemption provided under regulation 10(1)(a)(iii)

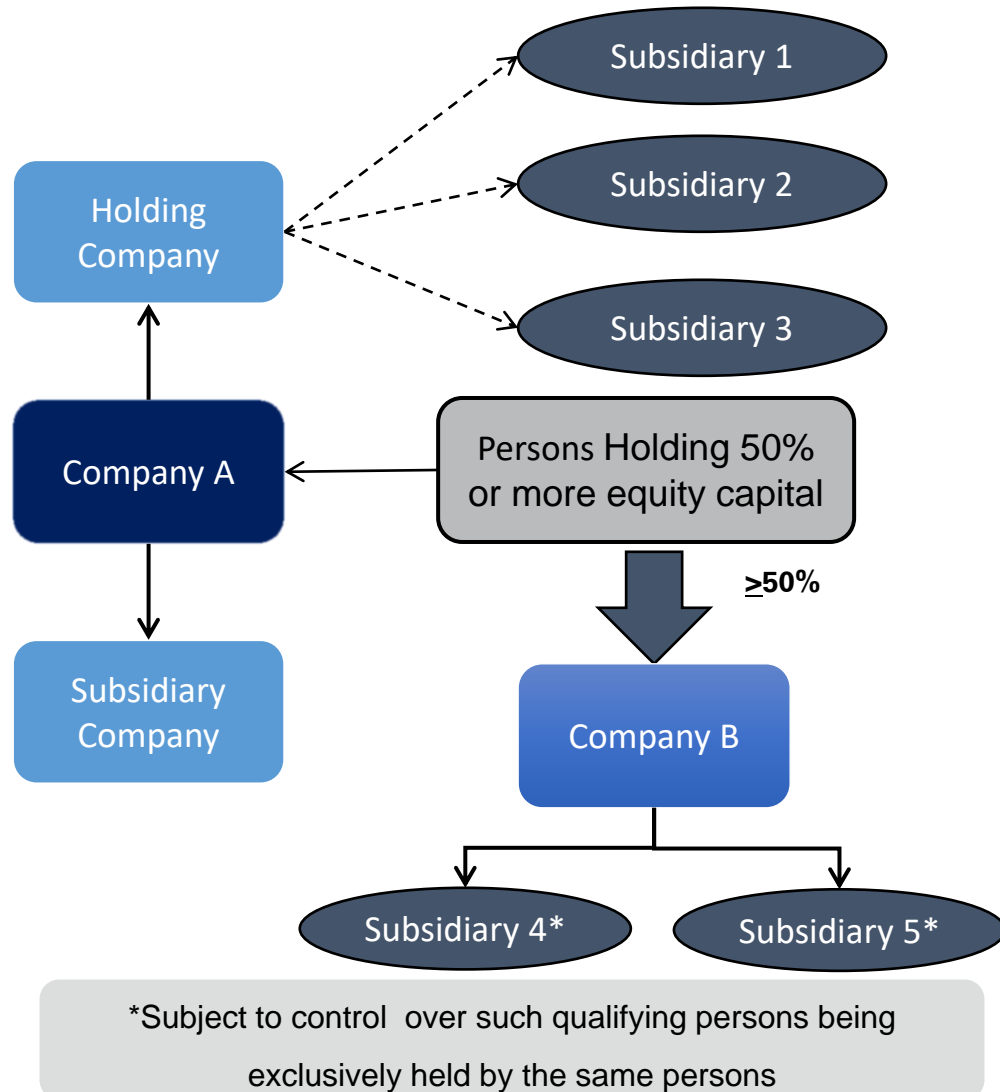
Inter-se Transfer – Reg 10(1)(a)(iii)/(iv)

iii. Company

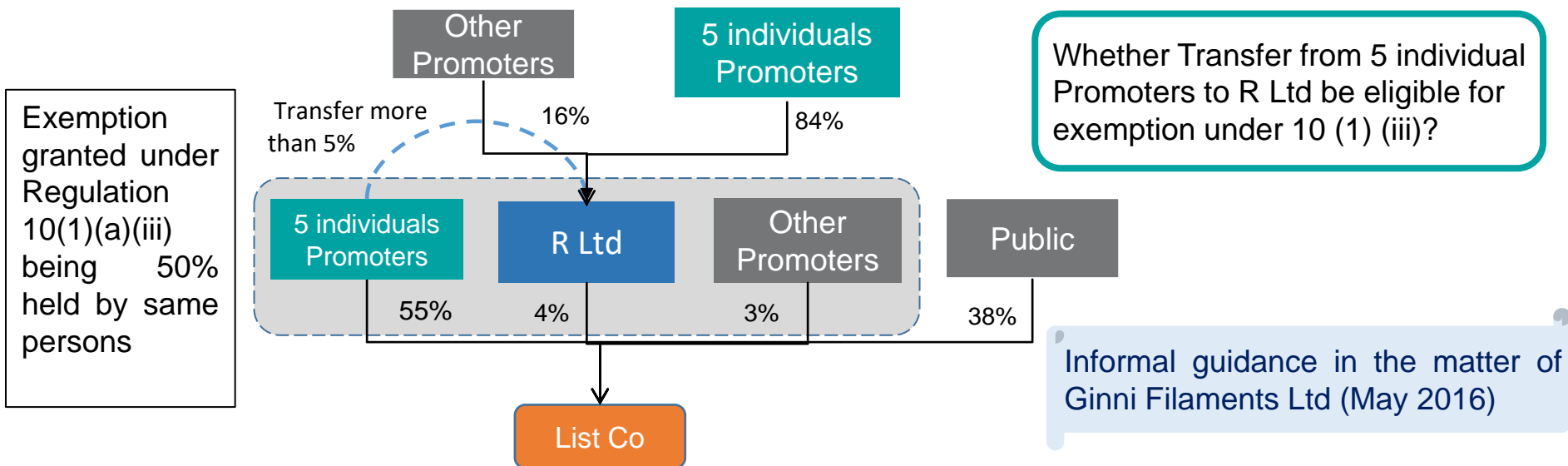
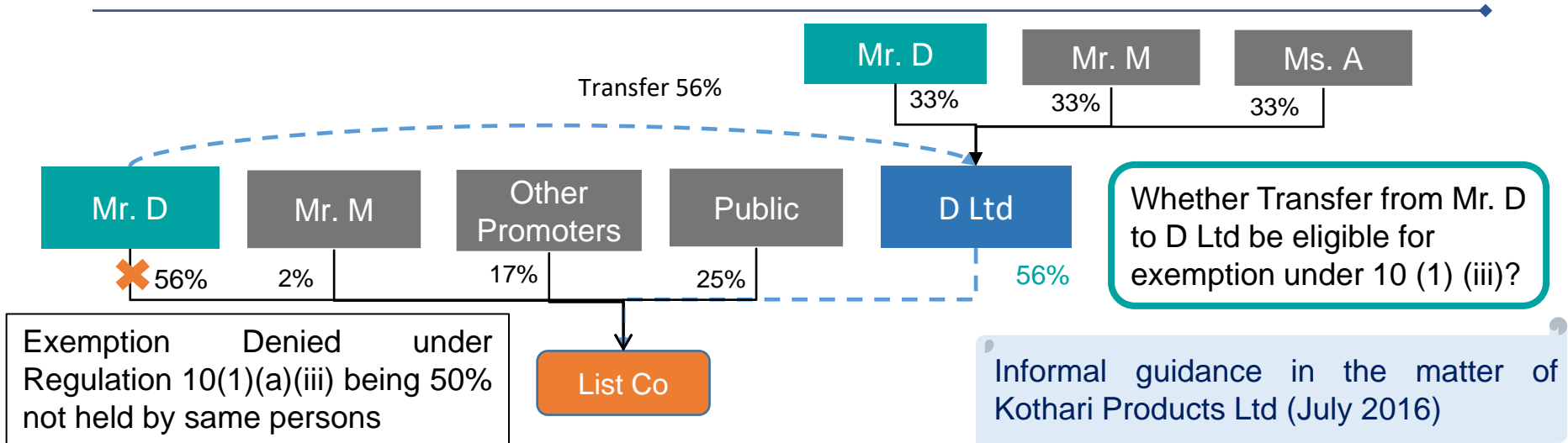
- its subsidiaries, its holding company,
- other subsidiaries of such holding company,
- **persons** holding at least 50% of the equity shares of such company,
- other companies in which **such persons** hold at least 50% of the equity shares,
- and their subsidiaries subject to control over such qualifying persons being exclusively held by the **same persons**

iv. Persons acting in concert

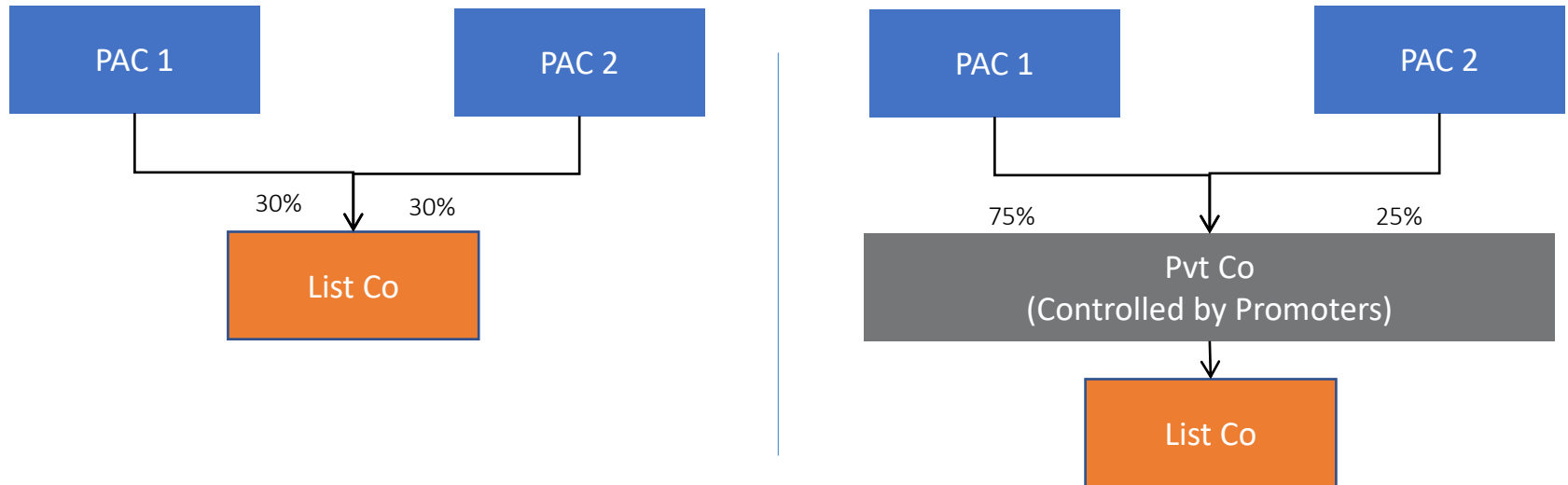
- For not less than 3 years prior to the proposed acquisition; and
- Disclosed as such pursuant to filings under the listing agreement



Case Studies - Reg 10(1)(a) (iii)



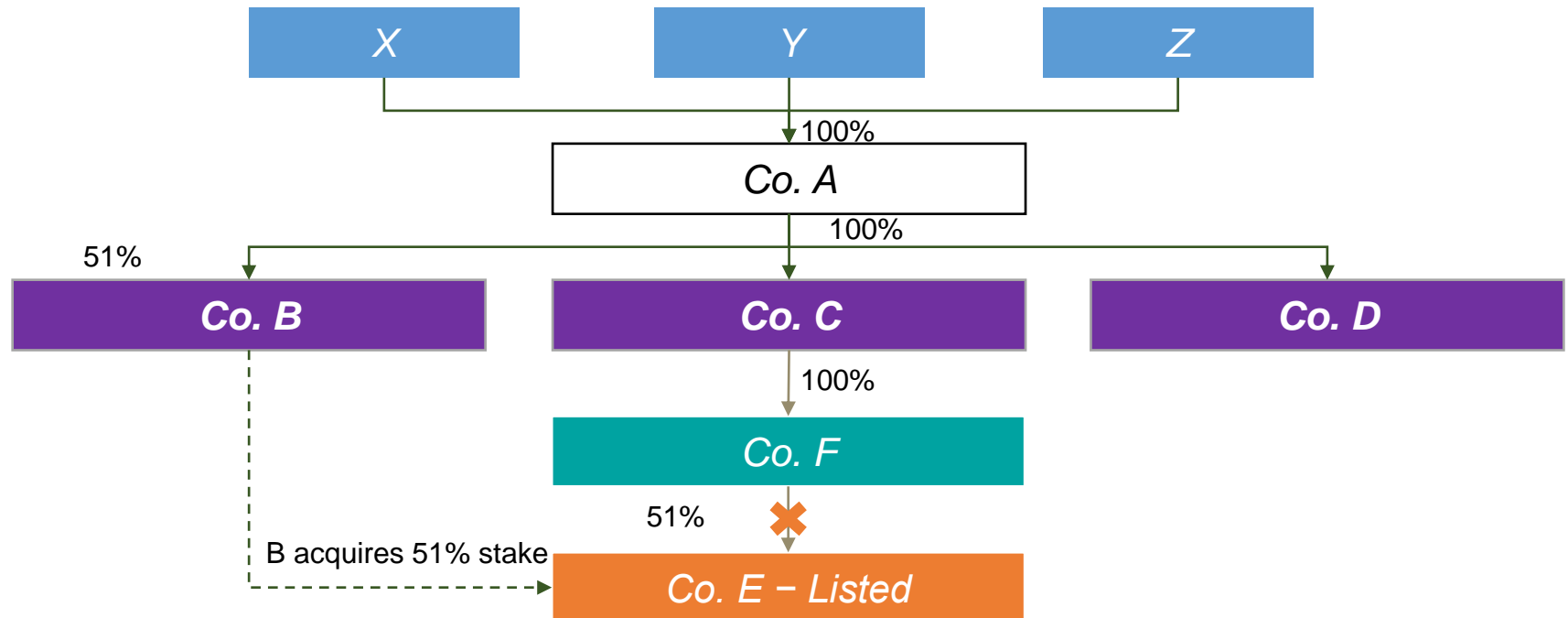
Case Study - Inter-se Transfer – Reg 10(1)(a)



Inter se transfer exemption available under 10 (1) (a) (iii)?

Exemption will be available under Regulation 10(1)(a)(iii), since the ultimate control remains the same

Case Study - Inter-se Transfer – Reg 10(1)(a) (iii)

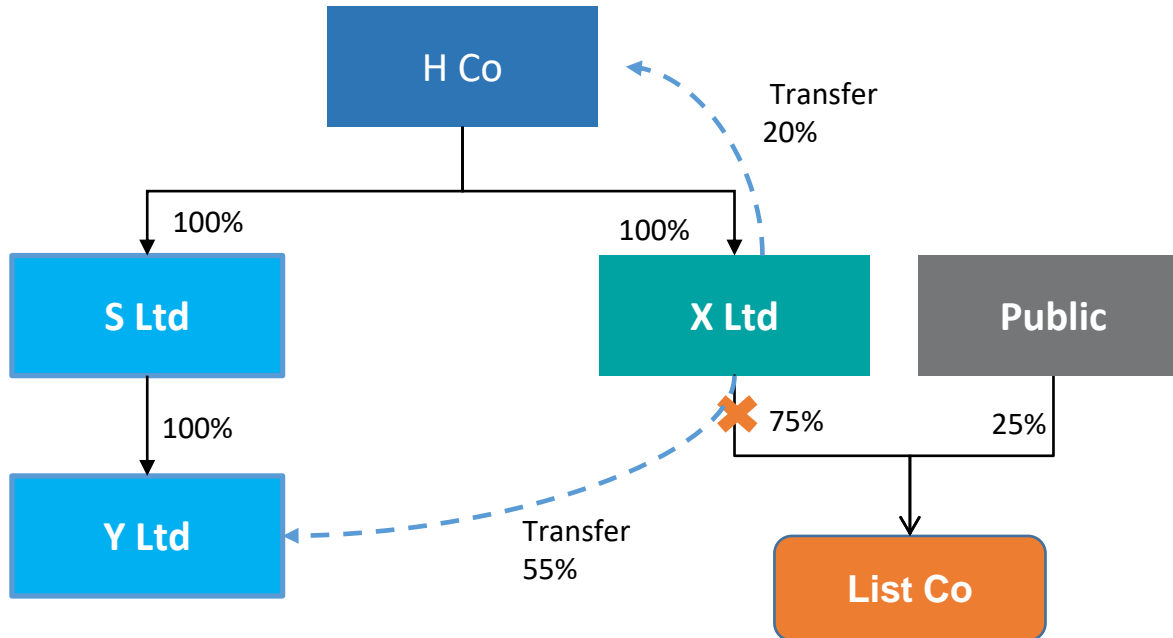


Inter se transfer exemption available under 10 (1) (a) (iii)?

Yes

As per R.10(1)(a)(iii), the above transfer of shares is between persons holding not less than 50% of the equity capital of the company and subsidiaries of such company

Case Study - Reg 10(1)(a) (iii)



Facts of the case:

- X Co Ltd intends to transfer
 - 20 % holding in Target Co to H Co (Holding Co) and
 - 55% holding in Target Co to Y Ltd (step down subsidiary of H Co)

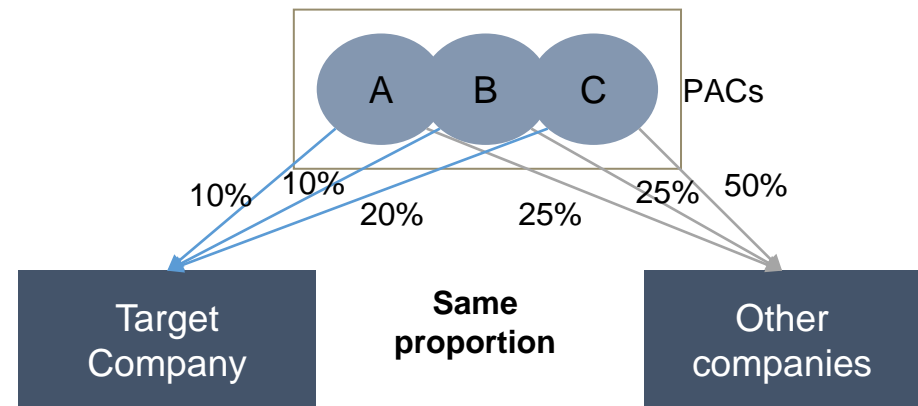
Informal guidance in the matter of International Paper APPM Ltd (Feb 2015)

1. Whether Transfer from X Ltd to H Co and Y Ltd be eligible for exemption 10 (1) (iii) ? Yes
2. Whether transfer of shares from X Co to Y be eligible for exemption, if Y was a LLP ? ?
3. Post the acquisition of Shares by Y Ltd, if Y Ltd converted into LLP. Whether Takeover code Trigger No

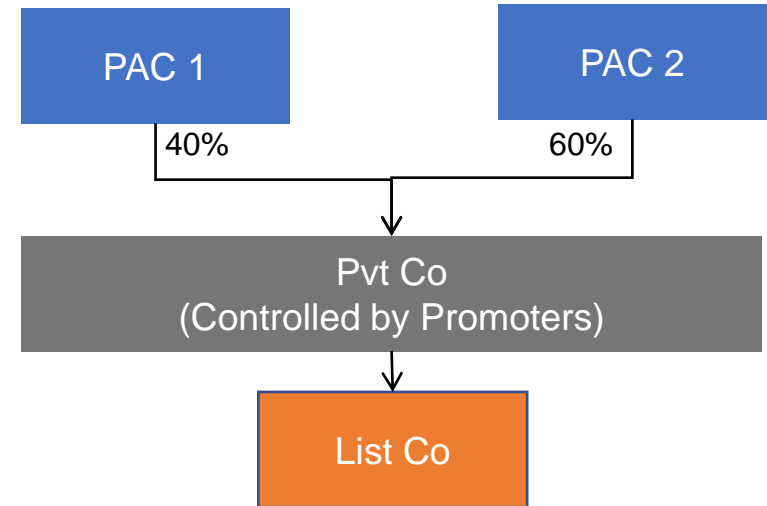
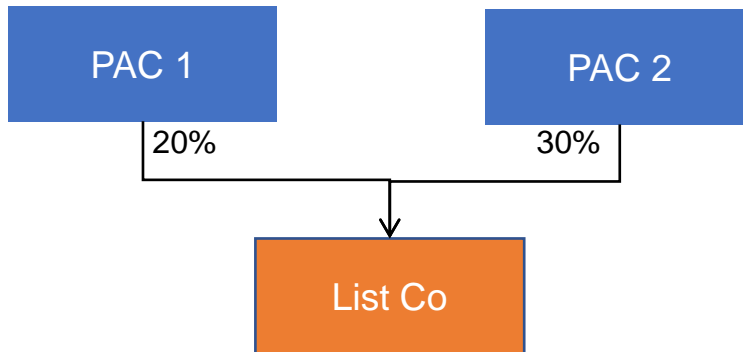
Inter-se Transfer – Reg 10(1)(a)(v)

v. Specified shareholders

- Shareholders of a target company who have been **PAC** for a period of **not less than 3 years** prior to the proposed acquisition and are **disclosed** as such pursuant to filings under the listing agreement and
- **any company in** which
 - the entire ESC is owned by such shareholders in the same proportion
 - as their holdings in the target company
 - without any differential entitlement to exercise voting rights in such company



Case Study - Reg 10(1)(a)(v)



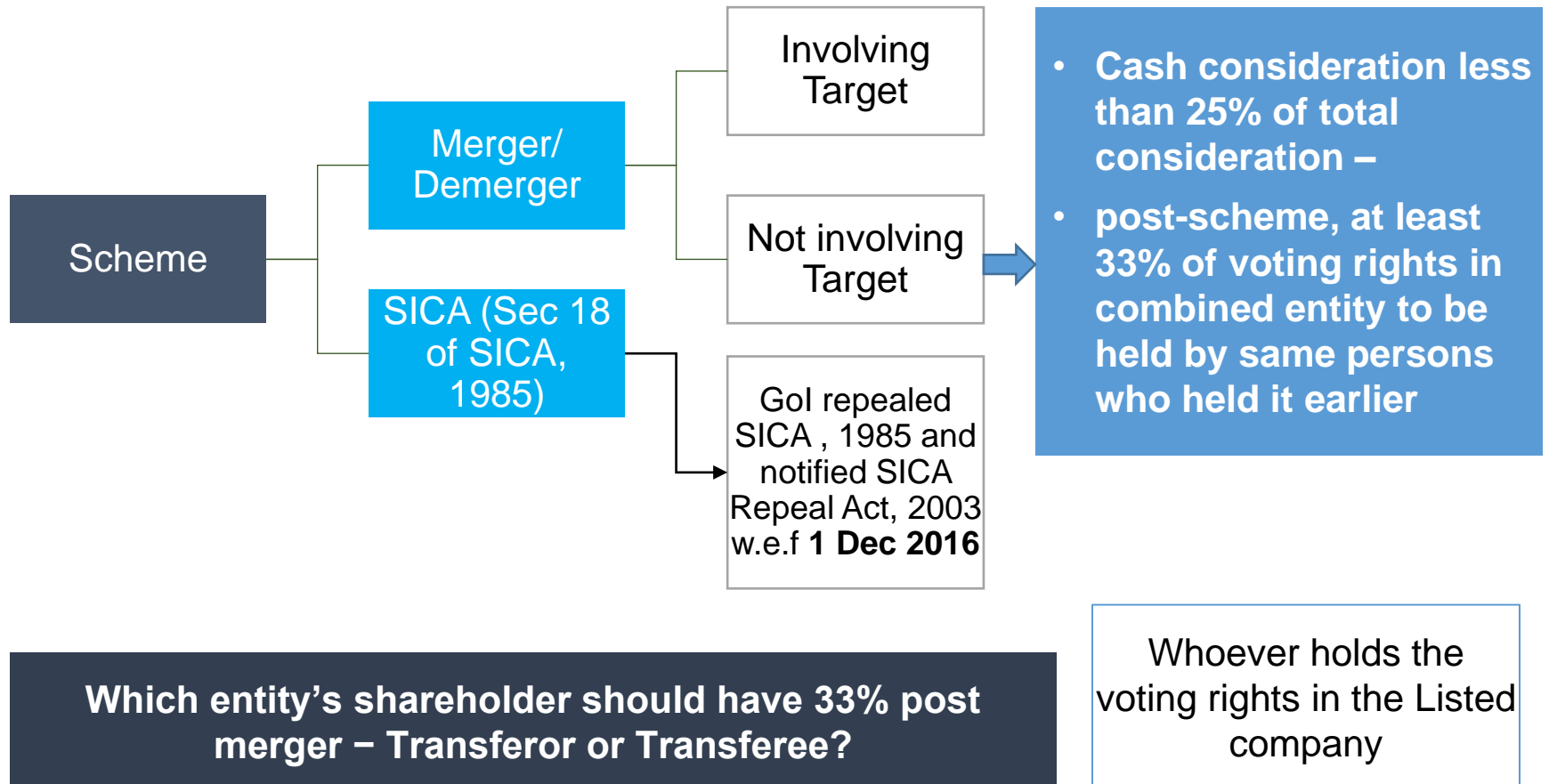
Whether Transfer from PAC 1 and PAC 2 to Pvt Co. be eligible for exemption?

Yes, As per R.10(1)(a)(v), transfer to the company where PAC holds entire share capital in same proportion

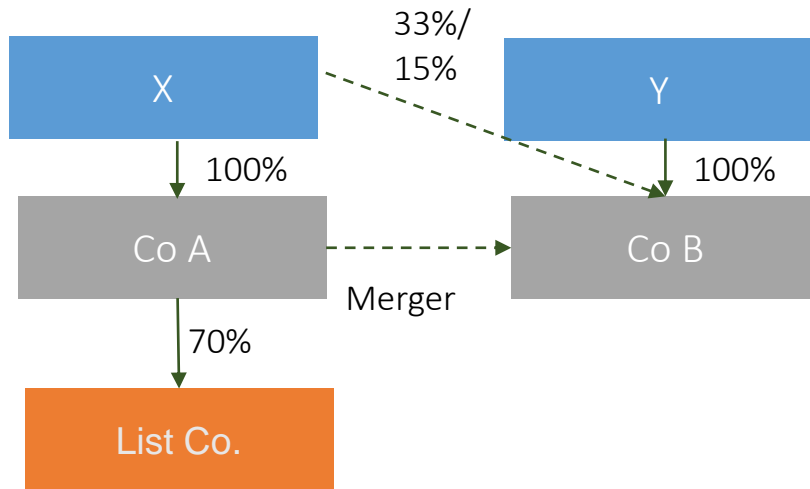
In case of LLP (instead of Pvt Co.) whether exemption can be claimed under [Regulation 10 \(1\) \(a\) \(v\)](#)?

Acquisition pursuant to a Scheme of Amalgamation and Arrangement and Case studies

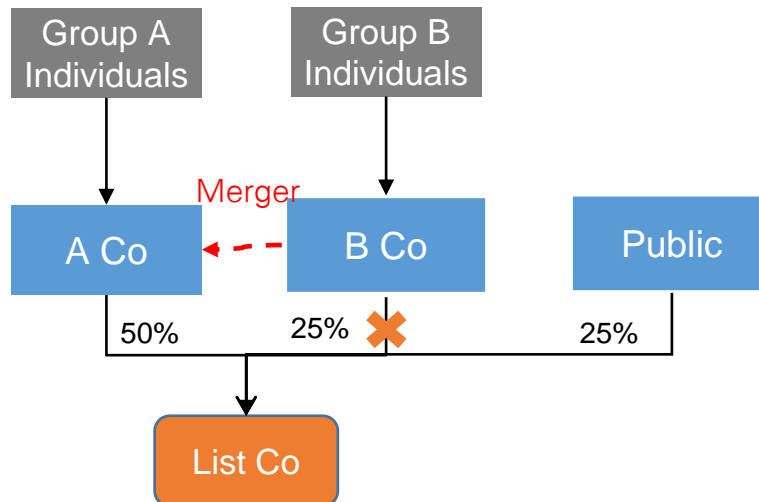
Acquisition pursuant to a Scheme - Reg 10(1)(d)



Acquisition pursuant to a Scheme - Reg 10(1)(d)



- Merger of Co A into Co B
- **Scenario 1:**
Post merger X to hold 33% shares in merged Co. Yes
- **Scenario 2:**
Post merger X is allotted 15% shares in Co B No

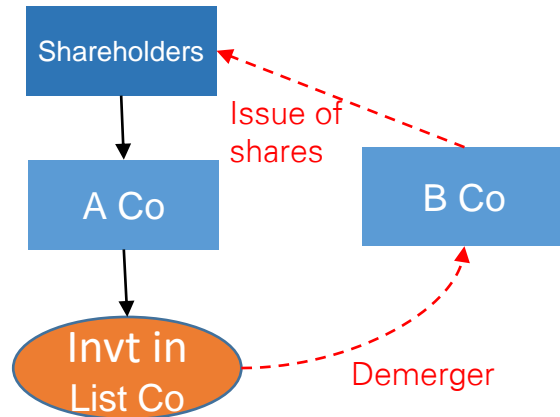


Facts

- B Co to merge into A Co
 - A Co to issue its shares to the shareholders of B Co
 - Post merger, shareholders of A Co and B Co together holds more than 33% in A Co
- Whether exempt under [10\(1\)\(d\)\(iii\)](#) ?

Yes

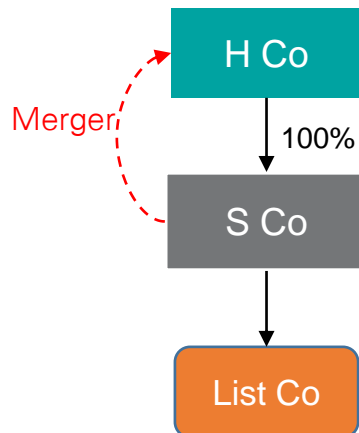
Case Studies- Regulation 10(1)(d)



Facts

- A Co to demerge its Undertaking including its investment in List Co to B Co
- B Co to issue shares to the shareholders of A Co
- Post demerger, shareholders of A Co to hold more than 33% in B Co

Whether exempt under [10\(1\)\(d\)\(iii\)](#) **Yes**



Facts

- S Co to merge into H Co
- No issue of shares on merger, S Co being wholly owned subsidiary
- Pursuant to merger, shares of List Co will be transferred to H Co

Whether the transfer be exempt under [10\(1\)\(a\)\(iii\)](#) or [10\(1\)\(d\)\(iii\)](#) ? **Yes**

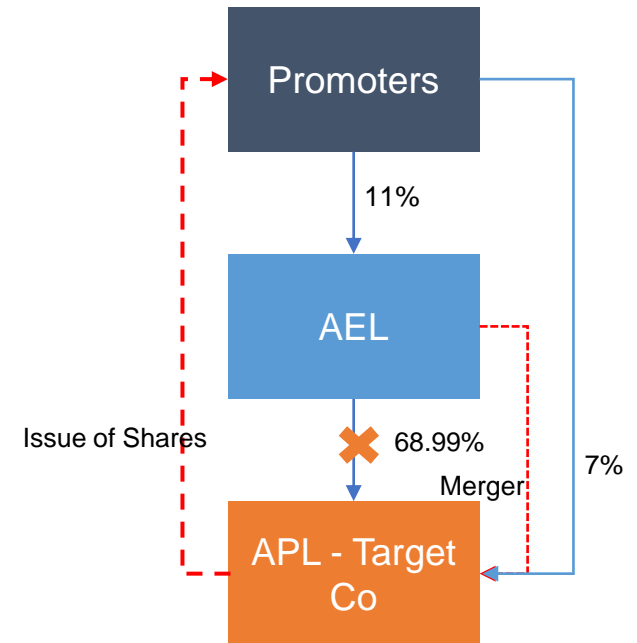
Case Study – Merger of Holding Co into subsidiary

Relevant Facts:

- Adani Enterprises Limited (AEL), a listed company holds 68.99% in the APL (List Co)
- Pursuant to a scheme, AEL merged into APL,
- The entire shareholding of AEL in the APL got cancelled and in return the shareholders of AEL were allotted proportionate shares in the APL
- Post Merger, Promoters of APL decreased from 75% to 58%

Clarification sought

1. Whether Merger would be exempt under 10 (1) (d) (ii) ?
2. Whether the promoters can acquire additional shares through market purchase under the creeping acquisition limit of 5% without triggering open offer requirement ?



Query 1

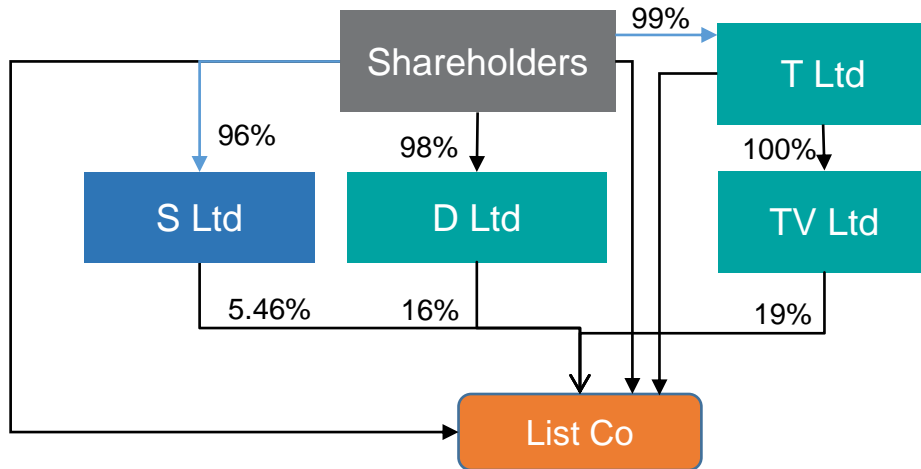
Yes

Query 2

(i) Yes – as exempt acquisition cannot be counted towards computing acquisition on a gross basis

Source: Informal Guidance dated 18 September, 2015 in the matter of Adani Properties Pvt Ltd

Case Study - Reg. 10(1)(d)



- T Ltd, TV Ltd and D Ltd to amalgamate into S Ltd
- Shares of S Ltd will be issued to shareholders of T Ltd and D Ltd
- Pursuant to Scheme, S Ltd's shareholding in target Co to increase from 5.46% to 40.53%

Informal guidance in the matter of Apcotex Industries Ltd (Jan 2016)

Stock exchanges has granted No Objection in following recent schemes:

- 1) Axiscades Engineering Technologies – Increase of promoter holding from 59% to 70% (Feb 2016)
- 2) Nitin Alloys - 47% to 71%(May 2016)

- Whether transfer of shares of List Co from T, D and TV Ltd to S Ltd pursuant to scheme would be exempted under 10 (1) (d) (iii) - **Yes**
- Acquisition of shares of List co by S Ltd from individual promoters would be eligible for exemption under 10 (1) (a) (ii) - **Yes**
- Whether S Ltd will be permitted to acquire additional 5% stake through creeping acquisition **Yes**

Buy Back - Regulation 10 (3) and 10 (4) (c)

Increase in voting rights pursuant to buy back of shares

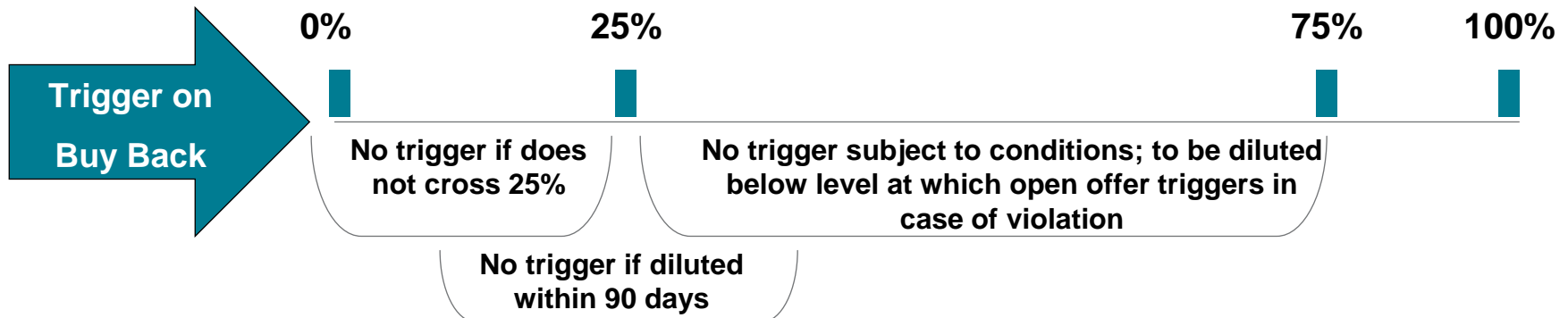
Regulation 10 (3):

- If results in crossing 25% limit – exempt if shareholder reduces holding within 90 days

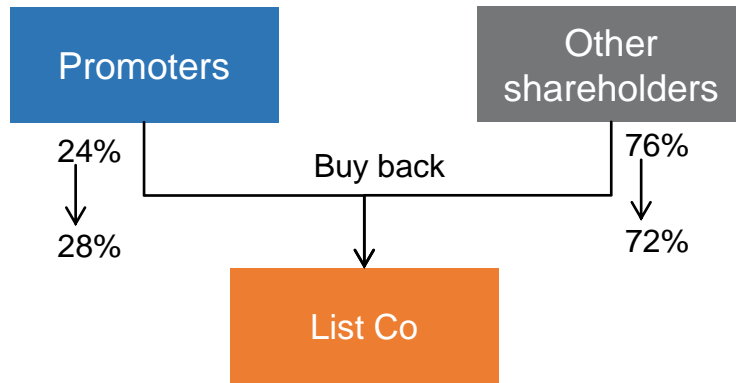
Regulation 10 (4)(c):

Exempt provided -

- Acquirer should not have voted in favour of buyback as director or shareholder
- Voting by postal ballot
- Not to result in change in control
- In case of non compliance, shareholding to be reduced below the level at which open offer triggers under Reg 3(2)



Case Study - Regulation 10 (3) and 10 (4) (c)



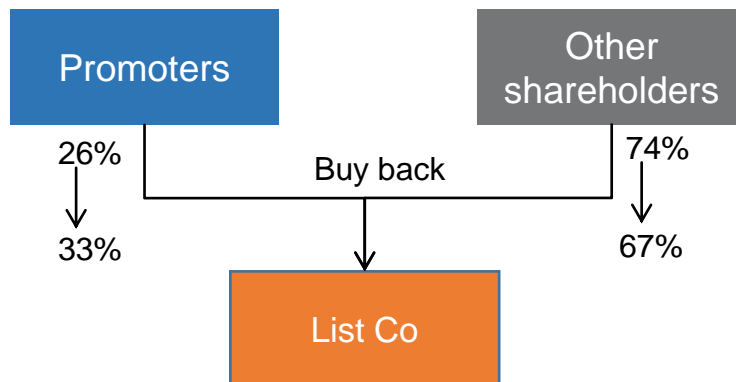
Facts of the case:

- Promoters holding 24% in List Co
- Post buy-back Promoters holding in List Co increased upto 28% (more than 25%)

Whether Open Offer Triggers

No

Provided promoter has to reduce his shareholding below 25% with in 90 days



Facts of the case:

- Promoters holding 26% in List Co
- Post buy-back Promoters holding in List Co increased upto 33%

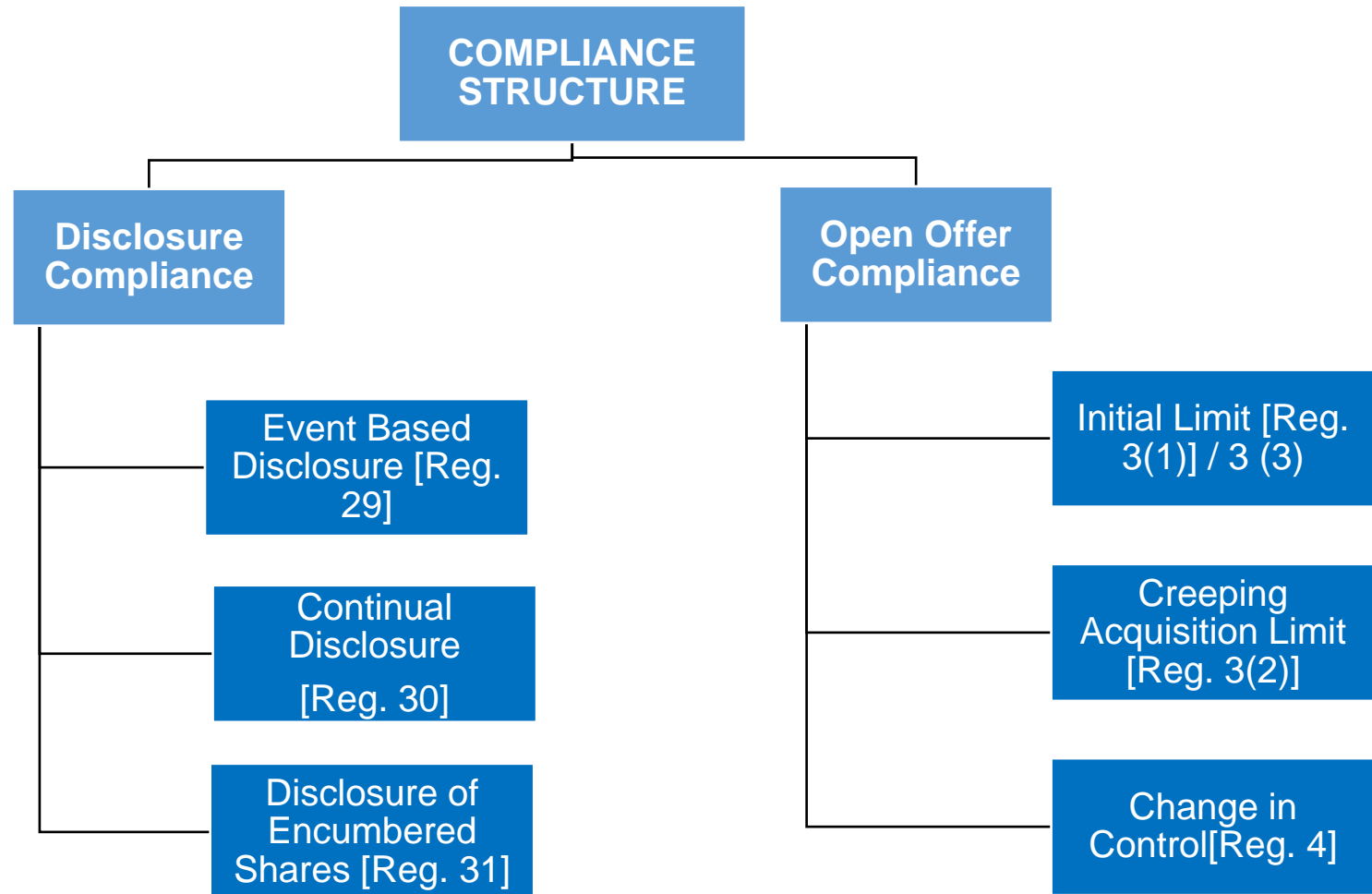
Whether Open Offer Triggers

No

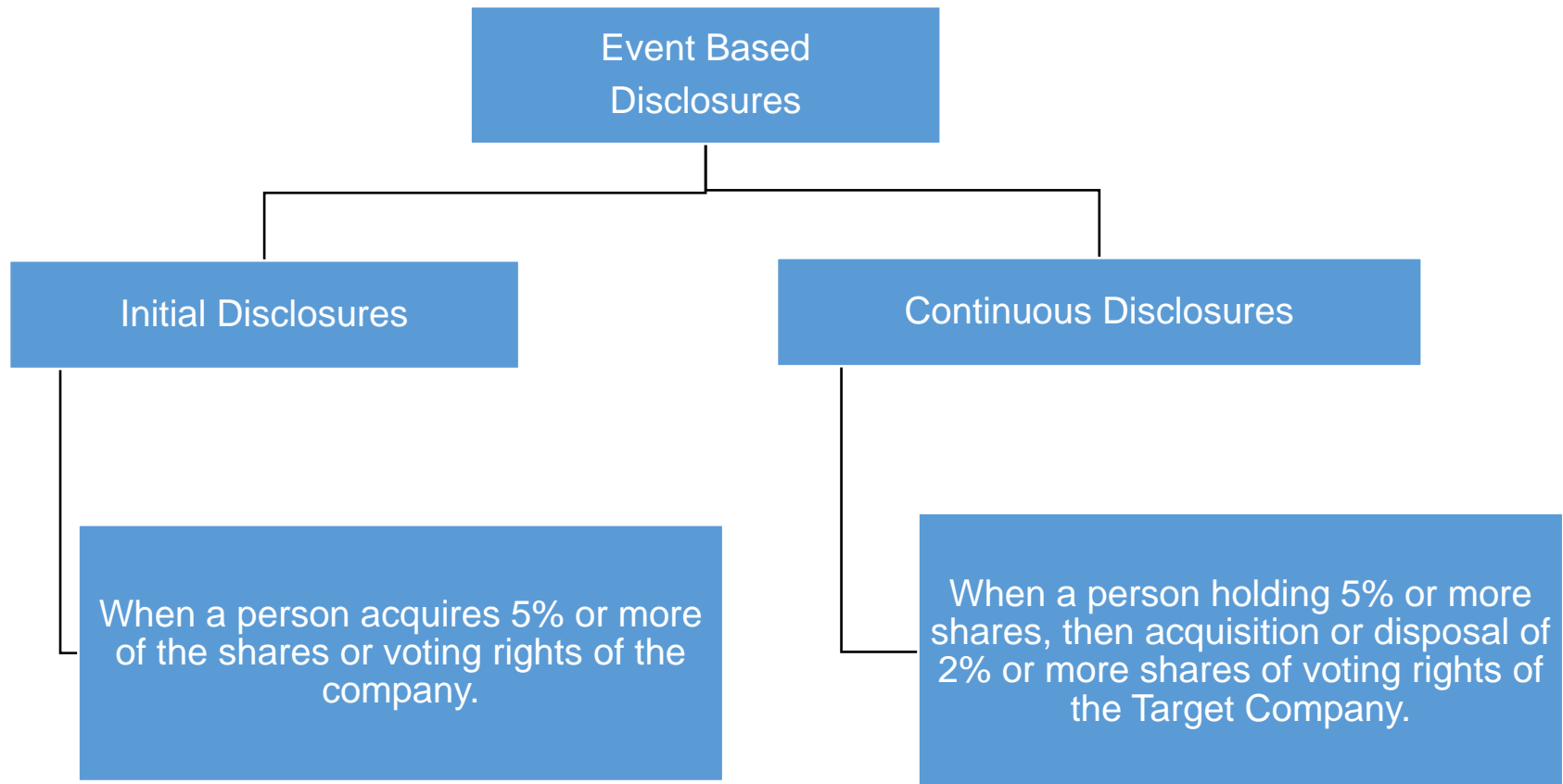
If conditions specified in R.10(4)(c) are satisfied

Disclosures Under Takeover Regulations - (Regulation 10, 29 , 30 and 31)

Compliance for Exemption



Disclosure Compliance - Event Based Disclosures



Disclosure Compliance – Event Based Disclosures

Reg	Triggering event	Disclosure by	Disclosure to	Time period
29(1)	Acquisition of 5% or more shares or voting rights	Any Acquirer* with PAC (including Promoter)	Target company and stock Exchange	Within 2 working days of receipt or intimation of allotment
29(2)	On acquisition/disposal of 2% or more shares or voting rights	Acquirer* with PAC holding 5% and more shares	Target company and stock Exchange	Within 2 working days of Such sale/purchase

- Acquirer includes pledgee of shares other than Schedule Commercial Banks/PFIs
- Shares taken on pledge would be Acquisition of shares
- Shares given on pledge – Disposal of shares

Disclosure Compliance - Annual Disclosures

Reg	Shareholding as on	Disclosure by	Disclosure to	Time period
30(1)	31st March	Acquirer with PAC holding 25% or more shares or voting rights	Target company and stock Exchange	Within 7 Working Days from the financial year ending 31st March
30(2)	31st March	Promoter with PAC	Target company and stock Exchange	Within 7 Working Days from the financial year ending 31st March

Disclosure Compliance - Encumbered Shares

Reg	Triggering event	Disclosure by	Disclosure to	Time period
31(1)	On creation of encumbrance	Promoter along with PAC	Target company and stock Exchange	Within 7 Working days from the date of creation of encumbrance of shares.
31 (2)	On invocation of encumbrance	Promoter along with PAC	Target company and stock Exchange	Within 7 Working days from the date of creation of pledge of shares

Compliances for Exemption

REGULATION 10(5)

- Inter se Transfer of shares
- Acquisition from State Level Financial Institution
- Acquisition from VCF or a foreign venture capital investor

REGULATION 10(6)

- All the general exemptions from the Open Offer as Specified in Regulation 10

REGULATION 10(6)

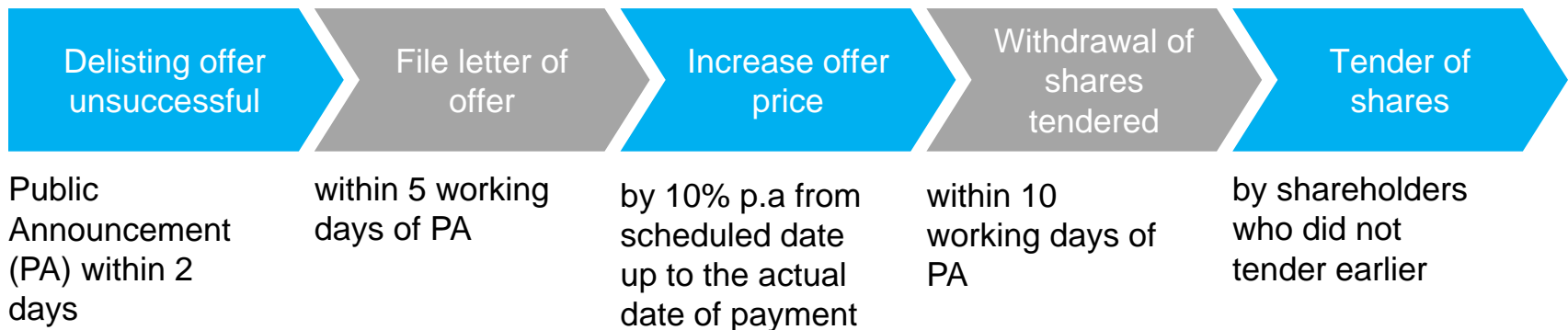
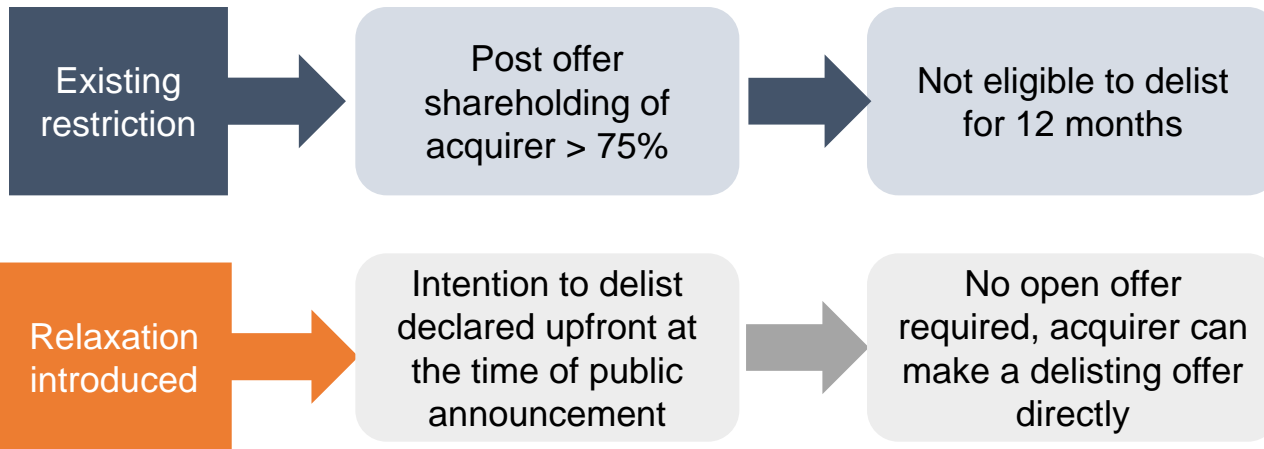
- Inter se transfer of shares
- Scheme of Arrangement not directly involving Target Company
- Acquisition of voting rights or of preference shares carrying voting rights
- Acquisition pursuant to CDR scheme
- Buy Back of shares
- Acquisition through Right Issue
- Acquisition from VCF or a foreign venture capital investor

Disclosure for Exemption under Regulation 10

Reg	Triggering event	Disclosure by whom	Disclosure to	Time period
10(5)	Exemption under Reg. 10(1)(a) Reg. 10(4)(e) & (f)	Acquirer	Stock Exchange	<ul style="list-style-type: none"> At least 4 working days in advance for proposed transaction
10(6)	Any exemption	Acquirer	Stock Exchange	<ul style="list-style-type: none"> Within 4 working days of acquisition of shares/voting rights, as applicable
10(7)	Only in case of acquisition made under clauses (a) of sub-regulation (1), sub-clause (iii) of clause (d) of sub regulation (1), clause (h) of sub-regulation (1), sub-regulation (2), sub-regulation (3) and clause (c) of sub-regulation (4), clauses (a), (b) and (f) of sub-regulation (4) of Regulation 10	Acquirer	SEBI with fees of INR 1.5 lacs	<ul style="list-style-type: none"> Within 21 working days of acquisition of shares

Annexures

Delisting offer (Regulation 5A)



Extracts of the Regulation 10 (1) a (iii) and 10 (a) (d) (iii)

General Exemptions.

10. (1) (a)(iii)

*a company, its subsidiaries, its holding company, other subsidiaries of such holding company, **persons holding not less than fifty per cent of the equity shares of such company**, other companies in which such persons hold not less than fifty per cent of the equity shares, and their subsidiaries subject to control over such qualifying persons being exclusively held by the same persons;*

(d)(iii) acquisition pursuant to a Scheme-

*of arrangement not directly involving the target company as a transferor company or as a transferee company, or **reconstruction not involving the target company's undertaking**, including amalgamation, merger or demerger, pursuant to an order of a court or a competent authority under any law or regulation, Indian or foreign, subject to,—*

- (A) the component of cash and cash equivalents in the consideration paid being less than twenty-five per cent of the consideration paid under the scheme; and*
- (B) where after implementation of the scheme of arrangement, persons directly or indirectly holding at least thirty-three per cent of the voting rights in the combined entity are the same as the persons who held the entire voting rights before the implementation of the scheme.*

[Back 1](#)

[Back 2](#)

Extracts of the Regulation 10 (1) (a) (v)

General Exemptions.

10. (1) (a) (v)

*(v) shareholders of a target company who have been persons acting in concert for a period of not less than three years prior to the proposed acquisition and are disclosed as such pursuant to filings under the listing agreement, and **any company in which the entire equity share capital is owned by such shareholders in the same proportion as their holdings in the target company without any differential entitlement to exercise voting rights in such company***

[Back](#)

Extracts of the Regulation 3 (1), 3(2) and 3 (3)

- 3 (1) No **acquirer** shall acquire shares or voting rights in a target company which taken together **with** shares or voting rights, if any, held by him and by **persons acting in concert** with him in such target company, entitle them to **exercise twenty-five per cent or more of the voting rights in such target company** unless the acquirer makes a public announcement of an open offer for acquiring shares of such target company in accordance with these regulations.
- 3(2) No acquirer, who together with persons acting in concert with him, has **acquired and holds** in accordance with these regulations shares or voting rights in a target company entitling them to **exercise twenty-five per cent or more of the voting rights in the target company but less than the maximum permissible non-public shareholding, shall acquire within any financial year additional shares** or voting rights in such target company entitling them to exercise more than five per cent of the voting rights, **unless** the acquirer makes a public announcement of an open offer for acquiring shares of such target company in accordance with these regulations:
- 3(3) For the purposes of sub-regulation (1) and sub-regulation (2), acquisition of shares by any person, such that the **individual shareholding of such person acquiring shares exceeds the stipulated thresholds, shall also** be attracting the obligation to make an open offer for acquiring shares of the target company **irrespective of whether there is a change in the aggregate shareholding with persons acting in concert.**

Thank You

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