Securities Law for NPOs

- Social Stock Exchange for NPOs

Social Stock Exchange for NPOs

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https://www.youtube.com/embed/vxIEvGqtLCI?si=8pAAkytZt2MLC_bp

Stock Exchange Vs. Social Stock Exchange

- Stock Exchange is a market in which securities are bought and sold
- Social Stock Exchange is a market which allows registration and listing of securities of Social Enterprises and provides an alternative fund raising structure
- Idea of Social Stock Exchange
  - Regulated platform that brings together social enterprises and donors
  - Facilitate funding and growth of social enterprises
  - Enabling mechanism to ensure robust standards of social impact and financial reporting-donor trust
  - Democratization for social sector funding in country

Journey of SSE in India

- India is the only country to set up SSE under regulatory framework.
- The journey is very short, just 2-3 years
- SSE was announced in budget of 2019-20
- Standardisation of procedures in the social sector will be a key outcome of SSE
- In India, Social Stock Exchange (SSE) is open to both not for profit and for profit organisations only if they are eligible as per Regulations laid down by Securities &

Exchange Board of India (SEBI).

Framework of SSE

- Working Group and Technical Group laid down the framework of SSE which has been formalised by SEBI in Feb 2022.
- 3 SEBI Regulations amended in July 2022 to lay down the framework of SSE in India
- SEBI (ICDR) Regulations-Chapter X-A
- SEBI (LODR) Regulations-Chapter IX-A
- SEBI (AIF) Regulations

The framework has been further modified based on progress made

Present status of NPO participation in SSE

Registration of NPOs

- NSE-87 NPOs-(40-50 NGO applications pending)
- BSE-25 NPOs

Listing of NPOs

- NSE: approx. Rs. 41 cr by 18 NPOs. 13 NPOs have submitted draft fund raising document
- BSE-approx. Rs. 3.5 cr by 2 NPOs. 6 NPOs have submitted draft fund raising document

No For Profit Enterprise has listed until now

SEBI (Issue of Capital & Disclosure Requirements)

Regulations 2022

- SSE notified. Separate segment on RSE with nationwide trading for registration of NPOs and listing of securities. SSE has been setup by National Stock Exchange (NSE) and

Bombay Stock Exchange (BSE) in India

- SSE accessible to institutional, non institutional and retail investors
- Exclusions for SSE: Corporate foundations, political or religious organizations or activities, professional or trade associations, infrastructure and housing companies, except affordable housing not eligible.
- Eligibility for accessing the SSE: a. NPOs b. FPE with ‘primacy of social intent’. Both are called Social Enterprise under the design of SSE.
- For NPO: Registration as Trust, Society or S.8 company with governance document, valid 12AB and 80G for next 12 months, PAN. Spending of Rs.50 lakhs and funding of Rs.10 lakhs in previous FY.
- For FPE, as per current regulations
- Primacy of social intent
  - Undertake one of 16 activities in Annexure A
  - Target underserved populations
  - 67% of activities for target population-on one of the three parameters i.e.
    - income
    - expenditure
    - customer base of preceding 3 year average
- Registration: mandatory for NPOs, not for FPEs. Checklist to complete by creating login credentials on neaps.nseindia.com portal. Answer to queries. Approval and Agreement as registered entity. Valid for 1 year and registration fee Rs.5k. Registration does not mean that funds have to be raised through SSE
- Fund raising
  - For NPOs-1. Zero coupon zero principal instrument instrument-It is a donation receipt, Minimum issue size Rs.50 lacs raise, 75% subscription, application size min Rs. 1000/- (March 2025), securities in in demat form, eligible for 80G benefit, face value is Rs.1/- normally, delisting by NPO once object achieved or project closed and certified by issuer. 2. Donations through MF schemes
  - FPE-equity, debt.
  - Fund raising document by NPOs filed with SEBI. Details to be provided in document: Vision, Target Segment, Strategy, Governance, Management, Finance (3 years financial statements), Operations, Compliance, Credibility, Social Impact, Risks. Draft document open for public comments on SSE for 21 days. After accounting for comments, final document and in principal approval by SSE that issue can be

opened.

- In principle approval valid for 6 months during which NPO can arrange soft commitment.
- Issue period-minimum 3 days and maximum 10 days. On case by case basis 10 days extension can be granted. Total period not more than 20 days.
- Main players are Advisor, RTA, Banks. Fund raising cost is about 5% and can be made part of the issue
- No listing fee by NSE presently
- CSR funds cannot be invested in ZCZP although channelising of 5% funds for CSR is being discussed. This will be a game changer.
- Largest issue has been for Rs.18 cr wherein 200 retail investors participated.

Development Impact Bond (DIB)

- It is an Outcome based funding (risk bearing) instrument. Has been tried in India.
- Besides ZCZP, SEBI is considering introducing DIB in SSE.
- The main purpose of development impact bonds is to attract private investors (risk fudner) to subsidize development projects. If a project is successful, the investors are repaid by the outcome funder (a philanthropic organization). However, if the project fails, the investors do not receive anything.
- Generally, the process starts when a philanthropic organisation identifies development projects and reaches out to potential investors and agrees to repay the principal amount plus some premium to the investors if the project is successful. In addition, the service provider)NGO) who will run the project is determined.
- The parties then determine the quantifiable metrics that will measure the project’s success. Interested investors inject the required capital by purchasing bonds and the service provider use the funds to finance the project.
- At the end of the fixed term, an independent evaluator performs an assessment of the project’s success based on the predetermined metrics. If the project meets the criteria, the outcome funder repays the principal and premium to the investors.

SEBI (Listing Obligation & Disclosure Requirements) Regulations 2022

- Annual disclosure by NPO registered with SSE within 60 days as per Guidance note issued by SEBI
  - General aspects: Name, Location, Vision/Mission/Goals, Outreach, Scale of operations including manpower, Top 5 donors, Top 5 programs
  - Governance aspects: Legal form, ownership, Governance structure, Governing Body, Key functionaries, Meetings of Governing Body, Enterprise wise Risks and mitigation, Ethics & conflict of interest, Related party transactions, Remuneration policy, Compliance management and status, Grievance redressal mechanism, Organisation registration certificates
  - Financial aspects: Auditors Report, details of Auditors, Program wise Fund utilisation certificate, Budget and budget utilisation details
- Disclosure by FPE if securities listed
- Disclosure of material events- frame materiality policy, designate key person for determining material event, reporting of material event to SSE within 7 days and regular update till the event is material. Also disclose on website

SEBI (Listing Obligation & Disclosure Requirements) Regulations 2022

- Disclosure of Social Impact by SEs who have registered/raised funds from SSE-Annual social impact report (AIR) audited by social audit firm employing social auditors within 90 days of close of FY.
- AIR shall capture qualitative & quantitative aspects of social impact by entity or the project for which funds raised.
- If NPO only registered disclose significant activities, program and methodology for determination of significance.
- For Social Impact Fund, AIR to capture impact for all SEs funded AIR should cover (a) strategic intent planning (b) Approach © Impact score card containing
  - metrices of Reach, depth and inclusion,
  - report on achievement and
  - beneficiary/stakeholder validation
- Statement of utilisation of funds-quarterly basis within 45 days of close of quarter till funds utilised and objective fulfilled. Discloses funds raised, utilised and to be utilised

Self - Regulatory Organization (SRO) for Social Stock Exchange

Institute of Social Auditors of India (ISAI) formed by ICAI is Self-Regulatory Organisation (SRO) for Social Stock Exchange to enrol and regulate Social Auditors (SAs)

The functions of SRO include:

- Empanelment, registration of SAs
- Laying down standards of professional conduct, suspension/ cancellation of membership of SAs
- Framing Social Audit Standard covering aspects such as scope, engagement acceptance, basic principles, audit procedures, assurance report, documentation etc.

Social Auditor & Social Audit Standards

Frame Code of Conduct for SAs.

“Social Auditor” is **an individual registered with a self-regulatory organization under the Institute of Chartered Accountants of India who has qualified a certification program conducted by National Institute of Securities Market and holds a valid certificate.**

Compendium of Social Audit Standards consisting of Social Audit Standards (SAS) on all the sixteen thematic areas and sub-areas.

Social Audit Standards

Social Audit Standards	SDGs
SAS 100: Eradicating hunger, poverty, malnutrition and inequality	SDG 1 – No Poverty SDG 2 – Zero Hunger

Social Audit Standards	SDGs
SAS 200: Promoting health care including mental healthcare, sanitation and making available safe drinking water	SDG 3 – Good Health and Well-being
SAS 300: Promoting education, employability and livelihoods	SDG 4 – Quality Education SDG 8 – Decent Work and Economic Growth
SAS 400: Promoting gender equality, empowerment of women and LGBTQIA+ communities	SDG 5 – Gender Equality
SAS 500: Ensuring environmental sustainability, addressing climate change including mitigation and adaptation, forest and wildlife conservation	SDG 13 – Climate Action SDG 7 – Affordable and Clean Energy SDG 14 – Life Below Water
SAS 600: Protection of national heritage, art and culture	SDG 11 – Sustainable Cities and Communities
SAS 700: Training to promote rural sports, nationally recognised sports, Paralympic sports and Olympic sports	SDG 10 – Reduced Inequalities
SAS 800: Supporting incubators of Social Enterprises SAS 900: Supporting other platforms that strengthen the non-profit ecosystem in fundraising and capacity building	SDG 9 – Industry, Innovation and Infrastructure
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SAS 1000: Promoting livelihoods for rural and urban poor including enhancing income of small and marginal farmers and workers in the non-farm sector	SDG 8 - Decent Work and Economic Growth SDG 10 – Reduced Inequalities
SAS 1100: Slum area development, affordable housing and other interventions to build sustainable and resilient cities	SDG 6 – Clean Water and Sanitation SDG 15 – Life on Land
SAS 1200: Disaster management, including relief, rehabilitation and reconstruction activities	SDG 11 - Sustainable Cities and Communities
SAS 1300: Promotion of financial inclusion	SDG 10 - Reduced Inequalities SDG 17 – Partnerships for the Goals

Social Audit Standards	SDGs
SAS 1400: Facilitating access to land and property assets for disadvantaged communities	SDG 10 - Reduced Inequalities
SAS 1500: Bridging the digital divide in internet and mobile phone access, addressing issues of misinformation and data protection	SDG 16 – Peace, Justice and Strong Institutions
SAS 1600: Promoting welfare of migrants and displaced persons	SDG 10 - Reduced Inequalities

SEBI (Alternative Investment Fund Regulations) 2022

- Erstwhile Alternative Investment Fund (AIF) renamed Social Impact Fund (SIF) issue social units through schemes to garner investible funds for funding social enterprises (SEs)
- Each scheme minimum corpus of Rs. 5 cr
- Minimum investment by individual investor Rs. 2 lakhs
- SIF deploy funds in securities of NPOs registered or listed on SSE
- Minimum 75% of investible funds in unlisted securities

Miscellaneous provisions

- Capacity Building fund of Rs.100 cr. for SSE with NABARD & SIDBI
- Governing Council of SSE facilitates smooth day to day functioning
- Various tax benefits and incentives being worked out for promoting SSE
- Consequential changes in various laws being worked out.