

PRESS RELEASE NO. 98/2013, DATED 3-10-2013

SEBI permits contracts for pre-emption and options in shareholders agreements

SEBI has issued a notification today, inter alia, permitting contracts for pre-emption including right of first refusal, tag-along or drag-along rights contained in the shareholders agreements or articles of association of companies. SEBI has also permitted contracts containing an option for purchase or sale of securities subject to the following:

- (a) the title and ownership of the underlying securities are held continuously by the selling party to such a contract for a minimum period of one year from the date of entering into the contract;
- (b) the price or consideration payable for the sale or purchase of the underlying securities pursuant to exercise of any option contained therein, is in compliance with all the laws for the time being in force, as applicable; and
- (c) the contract has to be settled by way of actual delivery of the underlying securities.

The contracts permitted under this notification shall be in accordance with the provisions of Foreign Exchange Management Act, 1999. Further, this notification shall not affect or validate any contract which has been entered into prior to the date of this notification.

This notification supersedes the earlier SEBI notification, i.e., S.O.184 (E) dated March 1, 2000.

This notification is also in line with the proviso to section 58(2) of the Companies Act, 2013 which states that *“any contract or arrangement between two or more persons in respect of transfer of securities shall be enforceable as a contract”*.

This [notification](#) issued under sections 16(1) and 28 (2) of the Securities Contracts (Regulation) Act, 1956 is available on the website www.sebi.gov.in.

Mumbai

October 03, 2013