Sub Section- I

Issues by Indian Companies in India

This sub-section attempts to cover the basic concepts and questions related to issuance of securities by unlisted Indian companies offering the shares to public and raising of further capital by listed Indian companies. For full particulars of laws governing the primary market, please refer to the Acts/Regulations/Guidelines/Circulars appearing under the Legal Framework Section of our website i.e. www.sebi.gov.in.

FAQs in this sub-section are presented under following 13 broad headings:

1. **Different kinds of issues**

What are the different kinds of issues which can be made by an Indian company in India?

Primarily, issues made by an Indian company can be classified as Public, Rights, Bonus and Private Placement. While right issues by a listed company and public issues involve a detailed procedure, bonus issues and private placements are relatively simpler. The classification of issues is as illustrated below:

a) **Public issue**
   - (i) **Initial Public offer (IPO)**
   - (ii) **Further Public offer (FPO)**

b) **Rights issue**

c) **Composite Issue**

d) **Bonus issue**

e) **Private placement**
   - (i) **Preferential issue**
   - (ii) **Qualified institutional placement**
   - (iii) **Institutional Placement Programme**

(a) Public issue: When an issue / offer of shares or convertible securities is made to new investors for becoming part of shareholders' family of the issuer (Entity making an issue is referred as "Issuer") it is called a public issue. Public issue can be further classified into Initial public offer (IPO) and Further public offer (FPO). The significant features of each type of public issue are illustrated below:

(i) Initial public offer (IPO): When an unlisted company makes either a fresh issue of shares or convertible securities or offers its existing shares or convertible securities for sale or both for the first time to the public, it is called an IPO. This paves way for listing and trading of the issuer's shares or convertible securities on the Stock Exchanges.

(ii) Further public offer (FPO) or Follow on offer: When an already listed company makes either a fresh issue of shares or convertible securities to the public or an offer for sale to the public, it is called a FPO.

(b) Rights issue (RI): When an issue of shares or convertible securities is made by an issuer to its existing shareholders as on a particular date fixed by the issuer (i.e. record date), it is called a rights issue. The rights are offered in a particular ratio to the number of shares or convertible securities held as on the record date.

(c) Composite issue: When the issue of shares or convertible securities by a listed issuer on public cum-rights basis, wherein the allotment in both public issue and rights issue is proposed to be made simultaneously, it is called composite issue.

(d) Bonus issue: When an issuer makes an issue of shares to its existing shareholders without any consideration based on the number of shares already held by them as on a record date it is called a bonus issue. The shares are issued out of the Company's free reserve or share premium account in a particular ratio to the number of securities held on a record date.

(e) Private placement: When an issuer makes an issue of shares or convertible securities to a select group of persons not exceeding 49, and which is neither a rights issue nor a public issue, it is called a private placement. Private placement of shares or convertible securities by listed issuer can be of three types:

(i) Preferential allotment: When a listed issuer issues shares or convertible securities, to a select group of persons in terms of provisions of Chapter VII of SEBI (ICDR) Regulations, 2009, it is called a preferential allotment. The issuer is required to comply with various provisions which inter-alia include pricing, disclosures in the notice, lock-in etc, in addition to the requirements specified in the Companies Act.

(ii) Qualified institutions placement (QIP): When a listed issuer issues equity shares or non-convertible debt instruments along with warrants and convertible securities other than warrants to Qualified Institutions Buyers only, in terms of provisions of Chapter VIII of SEBI (ICDR) Regulations, 2009, it is called a QIP.

(iii) Institutional Placement Programme (IPP): When a listed issuer makes a further public offer of equity shares, or offer for sale of shares by promoter/promoter group of listed issuer in which the offer, allocation and allotment of such shares is made only to qualified institutional buyers in terms Chapter VIII A of SEBI (ICDR) Regulations, 2009 for the purpose of achieving minimum public shareholding, it is called an IPP.

2. Types of Offer Documents (ODs)

(a) What is an offer document?

'Offer document' is a document which contains all the relevant information about the company, promoters, projects, financial details, objects of raising the money, terms of the issue, etc and is used for inviting subscription to the issue being made by the issuer.

'Offer Document' is called "Prospectus" in case of a public issue and "Letter of Offer" in case of a rights issue.

(b) I hear various terms like draft offer document, Red Herring prospectus, etc, what are they and how are they different from each other?

Terms used for offer documents vary depending upon the stage or type of the issue where the document is used. The terms used for offer documents are defined below:

(i) **Draft offer document** is an offer document filed with SEBI for specifying changes, if any, in it, before it is filed with the Registrar of companies (ROCs). Draft offer document is made available in public domain including websites of SEBI, concerned stock exchanges, or concerned Merchant Banker for enabling public to give comments, if any, on the draft offer document.

(ii) **Red herring prospectus** is an offer document used in case of a book built public issue. It contains all the relevant details except that of price or number of shares being offered. It is filed with RoC before the issue opens.

(iii) **Prospectus** is an offer document in case of a public issue, which has all relevant details including price and number of shares or convertible securities being offered. This document is registered with RoC before the issue opens in case of a fixed price issue and after the closure of the issue in case of a book built issue.

(iv) **Letter of offer** is an offer document in case of a Rights issue of shares or convertible securities and is filed with Stock exchanges before the issue opens**.**

(v) **Abridged prospectus** is an abridged version of offer document in public issue and is issued along with the application form of a public issue. It contains all the salient features from the prospectus.

(vi) **Abridged letter of offer** is an abridged version of the letter of offer. It is sent to all the shareholders along with the application form.

(vii) **Shelf prospectus** is a prospectus which enables an issuer to make a series of issues within a period of 1 year without the need of filing a fresh prospectus every time. This facility is available to public sector banks, scheduled banks and Public Financial Institutions.

(viii) **Placement document** is an offer document for the purpose of Qualified Institutional Placement and contains all the relevant and material disclosures.

3. Issue Requirements

(a) Are there any entry requirements for an issuer to make an issue / offer to public? If yes, what are these?

SEBI has laid down entry norms for entities making a public issue/ offer. The same are detailed below

Entry Norms: Entry norms are different routes available to an issuer for accessing the capital market by way of a public issue. They are meant for protecting the investors by restricting fund raising by companies if they do not satisfy the entry requirements.

(i) **An unlisted issuer making a Public Issue (i.e. IPO) is required to satisfy the following provisions:**

Entry Norm I (commonly known as "Profitability Route")

The Issuer Company shall meet the following requirements:

(a) Net Tangible Assets of at least Rs. 3 crores in each of the preceding three full years of which not more than 50% are held in monetary assets. However, the limit of fifty percent on monetary assets shall not be applicable in case the public offer is made entirely through offer for sale.

(b) Minimum of Rs. 15 crores as average pre-tax operating profit in at least three of the immediately preceding five years.

(c) Net worth of at least Rs. 1 crore in each of the preceding three full years.

(d) If the company has changed its name within the last one year, at least 50% revenue for the preceding 1 year should be from the activity suggested by the new name.

(e) The aggregate of the proposed issue and all previous issues made in the same financial year in terms of issue size does not exceed five times its pre-issue net worth as per the audited balance sheet of the preceding financial year

To provide sufficient flexibility and also to ensure that genuine companies are not limited from fund raising on account of strict parameters, SEBI has provided the alternative route to the companies not satisfying any of the above conditions, for accessing the primary Market, as under:

Entry Norm II (Commonly known as "QIB Route")

Issue shall be through book building route, with at least 75% of net offer to the public to be mandatory allotted to the Qualified Institutional Buyers (QIBs). The company shall refund the subscription money if the minimum subscription of QIBs is not attained.

(ii) **A listed issuer making a public issue (i.e. FPO) is required to satisfy the following requirements:**

(a) If the company has changed its name within the last one year, at least 50% revenue for the preceding 1 year should be from the activity suggested by the new name.

(b) The aggregate of the proposed issue and all previous issues made in the same financial year in terms of issue size does not exceed five times its pre-issue net worth as per the audited balance sheet of the preceding financial year

Any listed company not fulfilling these conditions shall be eligible to make a public issue (i.e. FPO) by complying with QIB Route as specified for IPOs i.e. issue shall be through book building route, with at least 75% to be mandatory allotted to the Qualified Institutional Buyers (QIBs).

(b) Is a listed company making a rights issue required to satisfy any entry norm?

No, there is no entry norm for a listed company making a rights issue

(c) Besides entry norms, are there any mandatory provisions which an issuer is expected to comply before making an issue?

An issuer making a public issue is required to inter-alia comply with the following provisions:

Minimum Promoter's contribution and lock-in: In a public issue by an unlisted issuer, the promoters shall contribute not less than 20% of the post issue capital which should be locked in for a period of 3 years. "Lock-in" indicates a freeze on the shares. The remaining pre issue capital of the promoters should also be locked in for a period of 1 year from the date of listing. In case of public issue by a listed issuer [i.e. FPO], the promoters shall contribute not less than 20% of the post issue capital or 20% of the issue size. In cases where the promoters contribution has been brought in and utilized, then a cash flow statement disclosing the use of funds in the offer document should be included. This provision ensures that promoters of the company have some minimum stake in the company for a minimum period after the issue or after the project for which funds have been raised from the public is commenced.

IPO Grading: IPO grading is the grade assigned by a Credit Rating Agency registered with SEBI, to the initial public offering (IPO) of equity shares or other convertible securities. The grade represents a relative assessment of the fundamentals of the IPO in relation to the other listed equity securities. Disclosure of "IPO Grades", so obtained is mandatory for companies coming out with an IPO. For more details on IPO Grading please refer to the sub-section on "IPO Grading".

(d) Whether I will get allotment of shares/convertible securities in case sufficient number of prospective allottees is not found?

No, the company cannot allot any shares or convertible securities unless there are at least 1000 prospective allottees in the public issue.

(e) Can I be entitled to make an application for convertible securities in the company, if the company has not issued shares to the public and get it listed in stock exchange?

Yes, you can make application for public issue of convertible securities even if the company has not listed its shares.

3A. In terms of regulation 37 of the SEBI (Issue of Capital and Disclosure Requirements) Regulations, 2009, the entire pre-issue capital held by persons other than promoters needs to be locked-in for a period of one year, subject to certain exemptions provided thereunder including that for equity shares allotted to employees under an employee stock option or employee stock purchase scheme of the issuer prior to the initial public offer. Can the Trusts meant for implementing the employee stock option schemes (ESOS) or employee stock purchase schemes (ESPS) transfer equity shares to employees in pursuance of

such schemes, during the said lock-in period?[1]

The Trusts meant for implementing the aforesaid schemes may transfer the equity shares to employees, upon exercise of vested option or under an ESPS, during the period of lock-in. However, the equity shares so received by the employees shall be subject to lock-in provisions as specified under the SEBI (Share Based Employee Benefits) Regulations, 2014.

[1] Inserted on May 25, 2016

4. Pricing of an Issue

(a) Who fixes the price of securities in an issue?

Indian primary market ushered in an era of free pricing in 1992. SEBI does not play any role in price fixation. The issuer in consultation with the merchant banker on the basis of market demand decides the price. The offer document contains full disclosures of the parameters which are taken in to account by Merchant Banker and the issuer for deciding the price. The Parameters include EPS, PE multiple, return on net worth and comparison of these parameters with peer group companies.

(b) What is the difference between “Fixed price issue” and “Book Built issue”?

On the basis of Pricing, an issue can be further classified into Fixed Price issue or Book Built issue.

Fixed Price Issue: When the issuer at the outset decides the issue price and mentions it in the Offer Document, it is commonly known as “Fixed price issue”.

Book built Issue: When the price of an issue is discovered on the basis of demand received from the prospective investors at various price levels, it is called “Book Built issue”.

(c) Where can I see the price and price band?

Issuer may disclose them in draft prospectus in case of a fixed price issue and floor price or price band in the red herring prospectus in case of a book built issue. The issuer is required to announce the floor price or price band at least five working days before the opening of the issue (in case of an initial public offer) and at least one working day before the opening of the issue (in case of a further public offer), in all the newspapers in which the pre issue advertisement was released.

(d) How many days before the opening of issue, price band should be published by the issuer?

Issuers are required to disclose information pertaining to the price band at least 5 working days prior to opening of an issue.

(e) How does it aid in decision making by the investors?

By providing the price band information sufficient number of days before issue opening, the market gets adequate time to absorb the same and factor that in the decision making process.

(f) I came across an offer from the Issuer at initial public offer stating that it is issuing shares/ convertible securities to retail individual investors and employees of the company at a price 10% lesser than the price offered to others, Can I apply?

Yes you can apply, if the company has offered so.

5. Understanding book building

(a) What is Book Building?

Book building is a process of price discovery. The issuer discloses a price band or floor price before opening of the issue of the securities offered. On the basis of the demands received at various price levels within the price band specified by the issuer, Book Running Lead Manager (BRLM) in close consultation with the issuer arrives at a price at which the security offered by the issuer, can be issued.

(b) What is a price band?

The price band is a range of price within which investors can bid. The spread between the floor and the cap of the price band shall not be more than 20%. The price band can be revised. If revised, the bidding period shall be extended for a further period of three days, subject to the total bidding period not exceeding ten days.

(c) How does Book Building work?

Book building is a process of price discovery. A floor price or price band within which the bids can move is disclosed at least five working days before opening of the issue in case of an IPO and at least one day before opening of the issue in case of an FPO. The applicants bid for the shares quoting the price and the quantity that they would like to bid at.

After the bidding process is complete, the 'cut-off' price is arrived at based on the demand of securities. The basis of Allotment is then finalized and allotment/refund is undertaken. The final prospectus with all the details including the final issue price and the issue size is filed with ROC, thus completing the issue process. Only the retail investors have the option of bidding at 'cut-off'.

(d) How does "cut-off" option works for investors?

"Cut-off" option is available for only retail individual investors i.e. investors who are applying for securities worth up to Rs 2,00,000/- only. Such investors are required to tick the cut-off option which indicates their willingness to subscribe to shares at any price discovered within the price band. Unlike price bids (where a specific price is indicated) which can be invalid, if price indicated by applicant is lower than the price discovered, the cut-off bids always remain valid for the purpose of allotment

(e) Can I (retail investor) change/revise my bid?

Yes, you can change or revise the quantity or price in the bid using the form for changing/revising the bid that is available along with the application form. However, the entire process of changing or revising the bids shall be completed within the date of closure of the issue.

(f) Can I (retail investor) cancel my Bid?

Yes, you can cancel your bid anytime before the finalization of the basis of allotment by approaching/ writing/ making an application to the registrar to the issue.

(g) What proof can I request from a trading member or a syndicate member for entering bids?

The syndicate member returns the counterfoil with the signature, date and stamp of the syndicate member. You can retain this as a sufficient proof that the bids have been accepted by the trading / syndicate member for uploading on the terminal.

(h) When is the company mandated to go for compulsory book building issue?

If the company does not satisfy any of the conditions stipulated in Chapter III, Part I, Clause 26 (I) of the SEBI ICDR Regulations 2009, then it has to compulsorily go through the book built route.

6. Categories of Investors

(a) What are the categories of investors in primary market? How the allotment is made to different categories of investors?

Investors are broadly classified under following categories-:

(i) Retail individual Investor (RIIs)
(ii) Non-Institutional Investors (NIIs)
(iii) Qualified Institutional Buyers (QIBs)

"Retail individual investor" means an investor who applies or bids for securities for a value of not more than Rs. 2,00,000.

"Qualified Institutional Buyer" shall mean:

(i) a mutual fund, venture capital fund and foreign venture capital investor registered with the Board;
(ii) a foreign institutional investor and sub-account (other than a sub-account which is a foreign corporate or foreign individual), registered with the Board;
(iii) a public financial institution as defined in section 4A of the Companies Act, 1956;
(iv) a scheduled commercial bank;
(v) a multilateral and bilateral development financial institution;
(vi) a state industrial development corporation;
(vii) an insurance company registered with the Insurance Regulatory and Development Authority;
(viii) a provident fund with minimum corpus of twenty five crore rupees;
(ix) a pension fund with minimum corpus of twenty five crore rupees;
(x) National Investment Fund set up by resolution no. F. No. 2/3/2005-DDII dated November 23, 2005 of the Government of India published in the Gazette of India;
(xi) insurance funds set up and managed by army, navy or air force of the Union of India;
(xii) insurance funds set up and managed by the Department of Posts, India

Investors who do not fall within the definition of the above two categories are categorized as “Non-Institutional Investors”

Allotment to various investor categories is detailed below:

In case of Book Built issue

1. In case an issuer company makes an issue of 100% of the net offer to public through voluntary book building process under profitability route:

a) Not less than 35% of the net offer to the public shall be available for allocation to retail individual investors;

b) Not less than 15% of the net offer to the public shall be available for allocation to non-institutional investors i.e. investors other than retail individual investors and Qualified Institutional Buyers;

c) Not more than 50% of the net offer to the public shall be available for allocation to Qualified Institutional Buyers.

2. In case of compulsory Book-Built Issues

a) at least 75% of net offer to public being allotted to the Qualified Institutional Buyers (QIBs), failing which the full subscription monies shall be refunded.

b) Not more than 15% the net offer to the public shall be available for allocation to non-institutional investors

c) Not more than 10% the net offer to the public shall be available for allocation to retail individual investors

In case of fixed price issue

The proportionate allotment of securities to the different investor categories in a fixed price issue is as described below:

1. A minimum 50% of the net offer of securities to the public shall initially be made available for allotment to retail individual investors.

2. The balance net offer of securities to the public shall be made available for allotment to:

a. Individual applicants other than retail individual investors, and
b. Other investors including corporate bodies/ institutions irrespective of the number of securities applied for.

(b) Which are the investor categories to whom reservations can be made in an initial public issue on competitive basis?

Reservation on competitive basis can be made in a public issue to the following categories:

i. Employees of the company
ii. Shareholders of the promoting companies in the case of a new company and shareholders of group companies in the case of an existing company
iii. persons who, as on the date of filing the draft offer document with the Board, are associated with the issuer as depositors, bondholders or subscribers to services of the issuer

In a public issue by a listed company, the reservation on competitive basis can be made for retail individual shareholders and in such cases the allotment to such shareholders shall be on proportionate basis

(c) Is there any discretion while doing the allotment amongst various investor categories as per the permissible allocations?

No, there is no discretion in the allotment process.

All allotees except anchor investors and retail individual investors are allotted shares on a proportionate basis within their respective investor categories. The allotment to each retail individual investor shall not be less than the minimum bid lot, subject to availability of shares in retail individual investor category, and the remaining available shares, if any, shall be allotted on a proportionate basis.

7. Investment in public Issues/ rights issues

(a) Where can I get application forms for applying/ bidding for the shares?

Application forms for applying/bidding for shares are available with all syndicate members, collection centers, the brokers to the issue, stock exchange website and the bankers to the issue. In case you intend to apply through APPLICATIONS SUPPORTED BY BLOCKED AMOUNT (ASBA), you may get the ASBA application forms from the Self Certified Syndicate Banks. For more details on "ASBA process" please refer to the sub-section titled **"Understanding Applications Supported by Blocked Amount (ASBA) Process"**

(b) Whom should I approach if the information disclosed in the offer document appears to be factually incorrect?

Merchant Banker(s), are required to do the due diligence while preparing an offer document. The draft offer document submitted to SEBI is put on website for public comments. In case, you find any instance of incorrect information/ lack of information, you may send your complaint to Lead Manager to the issue and/ or to SEBI at http://scores.gov.in/.

(c) Is it compulsory for me to have a Demat Account?

As per the requirement, all the public issues of size in excess of Rs.10 crore, are to made compulsorily in demat mode. Thus, if you intend to apply for an issue that is being made in a compulsory demat mode, you are required to have a demat account and also have the responsibility to put the correct DP ID and Client ID details in the bid/application forms.

(d) Is it compulsory to have PAN?

Yes, it is compulsory to have PAN. Any investor who wants to invest in an issue should have a PAN which is required to be mentioned in the application form. It is to be distinctly understood that the photocopy of the PAN is not required to be attached along with the application form at the time of making an application.

(e) For how many days an issue is required to be kept open?

The period for which an issue is required to be kept open is:

For Fixed price public issues: 3-10 working days

For Book built public issues: 3-7 working days extendable by 3 days in case of a revision in the price band

For Rights issues : 15-30 days.

(f) When do I get the refund of money?

Companies are required to refund the money within 15 days from the closure of the issue. In case of any delay the issuer company is required to pay interest at the rate of 15%.

(g) How can I know about the demand for an issue at any point of time?

The status of bidding in a book built issue is available on the website of BSE/NSE on a consolidated basis. The data regarding bids is also available investor category wise. After the price has been determined on the basis of bidding, the public advertisement containing, inter alia, the price as well as a table showing the number of securities and the amount payable by an investor, based on the price determined, is issued.

However, in case of a fixed price issue, information is available only after the closure of the issue through a public advertisement, issued within 10 days of dispatch of the certificates of allotment/ refund orders.

(h) How will I get my refund in an issue?

You can get refunds in an issue through various modes viz. registered/ordinary post, Direct Credit, RTGS (Real Time Gross Settlement), ECS (Electronic Clearing Service) and NEFT (National Electronic Funds Transfer).

As stated above, if you are residing in one of the specific centers as specified by Reserve Bank of India, then you will get refunds through ECS only except where you are otherwise disclosed eligible under Direct Credit and RTGS. If you are residing at any other center, then you will continue to get refunds through registered/ordinary post. You are therefore advised to read the instructions given in the prospectus/ abridged prospectus/ application form about centers. For more details, you may read subsection on “Electronic Clearing

Scheme for Refunds".

(i) When will the shares allotted to me get listed?

Listing of shares will be done within 12 days after the closure of the issue.

(j) How will I know which issues are coming to the market?

The information about the forthcoming issues may be obtained from the websites of Stock Exchanges. Further the issuer coming with an issue is required to give issue advertisements in an English national Daily with wide circulation, one Hindi national newspaper and a regional language newspaper with wide circulation at the place where the registered office of the issuer is situated.

(k) Where do I get the copies of the offer document?

The soft copies of the offer documents are put up on the website of Merchant banker and on the website of SEBI under Offer Documents section at the following link:

http://www.sebi.gov.in/sebiweb/home/list/3/15/0/1/Public-Issues

Copies of the offer documents in hard form may be obtained from the merchant banker.

(l) How do I find the status of offer documents filed by issuers with SEBI?

SEBI updates the processing status of offer documents on its website every week under the section Offer Documents on SEBI website at the following link: http://www.sebi.gov.in/sebiweb/home/list/3/14/8/0/Issues . The draft offer documents are put up on the website under Reports/Documents section. The final offer documents that are filed with SEBI/ROC are also put up for information under the same section.

(m) Whom do I approach if I have grievances in respect of non receipt of shares, delay in refund etc.?

You can approach the compliance officer of the issue, whose name and contact number is mentioned on the cover page of the Offer Document. You can also address your complaints to SEBI at http://scores.gov.in/. Alternately, you may write to SEBI at the following address: Office of Investor Assistance & Education, Securities & Exchange Board of India, C4-A, G Block, Bandra Kurla Complex, Bandra (E), Mumbai - 400051.

8. Intermediaries involved in the Issue Process

(a) Which are the intermediaries involved in an issue?

Intermediaries which are registered with SEBI are Merchant Bankers to the issue (known as Book Running Lead Managers (BRLM) in case of book built public issues), Registrars to the issue, and Bankers to the issue & Underwriters to the issue who are associated with the issue for different activities. Their addresses, telephone/fax numbers, registration number, and contact person and email addresses are disclosed in the offer documents.

(i) **Merchant Banker:** Merchant banker does the due diligence to prepare the offer document which contains all the details about the company. They are also responsible for ensuring compliance with the legal formalities in the entire issue process and for marketing of the issue.

(ii) **Registrars to the Issue:** They are involved in finalizing the basis of allotment in an issue and for sending refunds, allotment details, etc.

(iii) **Bankers to the Issue:** The Bankers to the Issue enable the movement of funds in the issue process and therefore enable the registrars to finalize the basis of allotment by making clear funds status available to the Registrars.

(iv) **Underwriters:** Underwriters are intermediaries who undertake to subscribe to the securities offered by the company in case these are not fully subscribed by the public, in case of an underwritten issue.

9. Guide to understand an offer document

This sub-section attempts to inform the structure of presentation of the content in an offer document. The basic objective is to help the reader to navigate through the content of an offer document.

(a) Cover Page

Under this head, full contact details of the Issuer Company, lead managers and registrars, the type of issue, number of shares offered, price and issue size, and the particulars regarding listing. Other details such as IPO Grading, risks in relation to the first issue, etc are also disclosed, if applicable.

(b) Risk Factors

Under this head the management of the issuer company gives its view on the Internal and external risks envisaged by the company and the proposals, if any, to address such risks. This information is disclosed in the initial pages of the document and also in the abridged prospectus. It is generally advised that the investors should go through all the risk factors of the company before making an investment decision.

(c) Introduction

Under this head a summary of the industry in which the issuer company operates, the business of the Issuer Company, offering details in brief, summary of consolidated financial statements and other data relating to general information about the company, the merchant bankers and their responsibilities, the details of brokers/syndicate members to the Issue, credit rating (in case of debt issue), debenture trustees (in case of debt issue), monitoring agency, book building process in brief, IPO Grading in case of First Issue of Equity capital and details of underwriting Agreements are given. Important details of capital structure, objects of the offering, funds requirement, funding plan, schedule of implementation, funds deployed, sources of financing of funds already deployed, sources of financing for the balance fund requirement, interim use of funds, basic terms of issue, basis for issue price, tax benefits are also covered in this section.

(d) About us

Under this head a review of the details of business of the company, business strategy, competitive strengths, industry-regulations (if applicable), history and corporate structure, main objects, subsidiary details, management and board of directors, compensation, corporate governance, related party transactions, exchange rates, currency of presentation and dividend policy are given.

(e) Financial Statements

Under this head financial statement and restatement as per the requirement of the Guidelines and differences between any other accounting policies and the Indian Accounting Policies (if the Company has presented its Financial Statements also as per either US GAAP/IFRS) are presented.

(f) Legal and other information

Under this head outstanding litigations and material developments, litigations involving the company, the promoters of the company, its subsidiaries, and group companies are disclosed. Also material developments since the last balance sheet date, government approvals/licensing arrangements, investment approvals (FIPB/RBI etc.), technical approvals, and indebtedness, etc. are disclosed.

(g) Other regulatory and statutory disclosures

Under this head, authority for the Issue, prohibition by SEBI, eligibility of the company to enter the capital market, disclaimer statement by the issuer and the lead manager, disclaimer in respect of jurisdiction, distribution of information to investors, disclaimer clause of the stock exchanges, listing, impersonation, minimum subscription, letters of allotment or refund orders, consents, expert opinion, changes in the auditors in the last 3 years, expenses of the issue, fees payable to the intermediaries involved in the issue process, details of all the previous issues, all outstanding instruments, commission and brokerage on, previous issues, capitalization of reserves or profits, option to subscribe in the issue, purchase of property, revaluation of assets, classes of shares, stock market data for equity shares of the company, promise vis-à-vis performance in the past issues and mechanism for redressal of investor grievances is disclosed.

(h) Offering information

Under this head Terms of the Issue, mode of payment of dividend, face value and issue price, rights of the equity shareholder, market lot, nomination facility to investor, issue procedure, book building procedure in details along with the process of making an application, signing of underwriting agreement and filing of prospectus with SEBI/ROC, announcement of statutory advertisement, issuance of confirmation of allocation note("can") and allotment in the issue, designated date, general instructions, instructions for completing the bid form, payment instructions, submission of bid form, other instructions, disposal of application and application moneys, interest on refund of excess bid amount, basis of allotment or allocation, method of proportionate allotment, dispatch of refund orders, communications, undertaking by the company, utilization of issue proceeds, restrictions on foreign ownership of Indian securities, are disclosed.

(i) Other Information

This covers description of equity shares and terms of the Articles of Association, material contracts and documents for inspection, declaration, definitions and abbreviations, etc.

10. SEBI's role in an issue

What is SEBI's role in an issue?

Any company making a public issue or a rights issue of securities of value more than Rs 50 lakhs is required to file a draft offer document with SEBI for its observations. The validity period of SEBI's observation letter is twelve months only i.e. the company has to open its issue within the period of twelve months starting from the date of issuing the observation letter.

There is no requirement of filing any offer document / notice to SEBI in case of preferential allotment and Qualified Institution Placement (QIP). In QIP, Merchant Banker handling the issue has to file the placement document with Stock Exchanges for making the same available on their websites.

Given below are few clarifications regarding the role played by SEBI:

(a) Till the early nineties, Controller of Capital Issues used to decide about entry of company in the market and also about the price at which securities should be offered to public. However, following the introduction of disclosure based regime under the aegis of SEBI, companies can now determine issue price of securities freely without any regulatory interference, with the flexibility to take advantage of market forces.

(b) The primary issuances are governed by SEBI in terms of SEBI (ICDR) Regulations, 2009. SEBI framed its Disclosures and Investor Protection (DIP) guidelines initially for public offerings which were later converted into Regulations i.e. in 2009 by way of ICDR Regulations. The SEBI DIP Guidelines, and subsequently ICDR Regulations, over the years have gone through many amendments in keeping pace with the dynamic market scenario. It provides a comprehensive framework for issuing of securities by the companies.

(c) Before a company approaches the primary market to raise money by the fresh issuance of securities it has to make sure that it is in compliance with all the requirements of SEBI (ICDR) Regulations, 2009. The Merchant Banker are those specialised intermediaries registered with SEBI, who perform the due diligence and ensures compliance with ICDR Regulations before the document is filed with SEBI.

(d) Officials of SEBI at various levels examine the compliance with ICDR Regulations and ensure that all necessary material information is disclosed in the draft offer documents.

Still there are certain mis-conceptions prevailing in the mind of investors about the role of SEBI which are clarified here in under:

(a) Does SEBI recommend any Issue?

It should be distinctly understood that SEBI does not recommend any issue nor does it take any responsibility either for the financial soundness of any scheme or the project for which the issue is proposed to be made.

(b) Does SEBI approve the contents of an issue?

Submission of offer document to SEBI should not in any way be deemed or construed that the same has been cleared or approved by SEBI. The Lead manager certifies that the disclosures made in the offer document are generally adequate and are in conformity with SEBI guidelines for disclosures and investor protection in force for the time being. This requirement is to facilitate investors to take an informed decision for making investment in the proposed issue.

(c) If SEBI has issued observations on the offer document, does it mean that my investment is safe?

The investors should make an informed decision purely by themselves based on the contents disclosed in the offer documents. SEBI does not associate itself with any issue/issuer and should in no way be construed as a guarantee for the funds that the investor proposes to invest through the issue. However, the investors are generally advised to study all the material facts pertaining to the issue including the risk factors before considering any investment.

11. Other terms

(a) Green-shoe Option

Green Shoe Option is a price stabilizing mechanism in which shares are issued in excess of the issue size, i.e. a maximum of 15%. It is a mechanism to stabilize the issue price post listing.

(b) Safety Net

In a safety net scheme or a buy back arrangement the issuer company in consultation with the lead merchant banker discloses in the RHP that if the price of the shares of the company post listing goes below a certain level the issuer will purchase back a specific number of shares from original resident retail individual allottees at the issue price.

(c) Open book/closed book

In an open book building system the merchant banker along with the issuer ensures that the demand for the securities is displayed online on the website of the Stock Exchanges. Here, the investor can be guided by the movements of the bids during the period in which the bid is kept open. Indian Book building process provides for an open book system.

In the closed book building system, the book is not made public and the bidders will have to take a call on the price at which they intend to make a bid without having any information on the bids submitted by other bidders.

(d) Hard underwriting

Hard underwriting is when an underwriter agrees to buy his commitment of shares before the issue opens. The underwriter guarantees a fixed amount to the issuer. Thus, in case the shares are not subscribed by investors, the issue is devolved on underwriters and they have to bring in the amount by subscribing to the shares. The underwriter bears a risk which is much higher than soft underwriting.

(e) Soft underwriting

Soft underwriting is when an underwriter agrees to buy the shares at stage after the issue is closed. The risk faced by the underwriter as such is reduced to a small window of time.

(f) Differential pricing

When one category of investors is offered shares at a price different from the other category it is called differential pricing.

The following are the different categories of investors to whom shares can be issued at differential pricing:

a) Retail investors: An issuer company can allot the shares to retail individual investors at a discount of maximum 10% to the price at which the shares are offered to other categories of public.
b) Employees: An issuer company can offer the shares to employees at a discount of maximum 10% to the floor price at which the shares are offered to other categories of public.

(g) Basis of Allocation/Basis of Allotment

After the closure of the issue, the bids received are aggregated under different categories i.e., firm allotment, Qualified Institutional Buyers (QIBs), Non-Institutional Investors (NIIs), Retail Individual Investors (RII), etc. Allotment to QIBs and NIIs is done on a proportionate basis. However, the allotment to each retail individual investor shall not be less than the minimum bid lot, subject to availability of shares in retail individual investor category, and the remaining available shares, if any, shall be allotted on a proportionate basis.

(h) Fast Track Issues (FTI)

SEBI has introduced FTI in order to enable well-established and compliant listed companies satisfying certain specific entry norms/conditions to access Indian Primary Market in a time effective manner. Such companies can proceed with FPOs / Right Issues by filing a copy of RHP / Prospectus with the RoC or the Letter of Offer with designated Stock Exchanges and SEBI. Such companies are not required to file Draft Offer Document for SEBI comments and to Stock Exchanges. Entry Norms for companies seeking to access Primary Market through Fast track route:

(i) The shares of the company have been listed on any stock exchange having nationwide terminals for a period of at least three years immediately preceding the date of filing of offer document with RoC/ SE.

(ii) The “average market capitalisation of public shareholding” of the company is at least Rs.3000 crores;

(iii) The annualized trading turnover of the shares of the company during six calendar months immediately preceding the month of filing of offer document with RoC/ SE has been at least two percent of the weighted average number of shares listed during the said six months period:

Provided that for issuers, whose public shareholding is less than fifteen per cent of its issued equity capital, the annualised trading turnover of its equity shares has to be at least two per cent of the weighted average number of equity shares available as free float during such six months’ period

(iv) The company has redressed at least 95% of the total shareholder / investor grievances or complaints received till the end of the quarter immediately proceeding the month of the date of filing of offer document with RoC/ SE.

(v) The company has complied with the listing agreement for a period of at least three years immediately preceding the filing of offer document with RoC/ SE.

(vi) The impact of auditors’ qualifications, if any, on the audited accounts of the company in respect of the financial years for which such accounts are disclosed in the offer document does not exceed 5% of the net profit/ loss after tax of the company for the respective years.

(vii) No prosecution proceedings or show cause notices issued by the Board are pending against the company or its promoters or whole time directors as on the date of filing of offer document with RoC/ SE and (viii) The entire shareholding of the promoter group is held in dematerialised form as on the reference date.

12. Additional information

(a) Where do I get data on primary issues? (issuer, total issues, issue size, the intermediaries, etc., during a given period)

SEBI brings out a monthly bulletin that is available off the shelf at bookstores. A digital version of the same is available on the SEBI website under the "News/Publications" section. The Bulletin contains all the relevant historical figures of intermediary issue and intermediary particulars during the given period placed against historical figures.

(b) What are the relevant regulations and where do I find them?

The SEBI Manual is a comprehensive databank of all relevant Acts, Rules, Regulations and Guidelines that are related to the functioning of the Board. The details pertaining to the Acts, Rules, Regulations, Guidelines and Circulars are placed on the SEBI website under the "Legal Framework" section. The periodic updates are uploaded on the SEBI website regularly.

(c) Will SEBI answers my queries pertaining to primary market?

The "Contact us" section on the SEBI website gives details of the contact name, address, phone number, etc for any investor to communicate his/her complaints or for assistance. However, if the queries are legal in nature, they may be referred to SEBI under the SEBI (Informal Guidance) Scheme, 2003 as available at http://www.sebi.gov.in/sebiweb/home/list/1/5/0/0/Guidelines.

13. Convertible Securities

(a) What is the maximum tenure in case of public issue of convertible securities?[2]

In general, SEBI (Issue of Capital and Disclosure Requirements) Regulations, 2009 do not specify the maximum tenure in case of public issue of convertible securities. However, in accordance with regulation 23 of these regulations, no issuer shall issue fully convertible debt instruments with a tenure of 18 months or more for financing replenishment of funds or for providing loan to or for acquiring shares of any person who is part of the same group or who is under the same management as the issuer.

[2] Inserted on February 12, 2016