

Consultation Paper

Review of SEBI (Issue of Capital & Disclosure Requirements) Regulations, 2009

A. Background

1. SEBI (Issue of Capital and Disclosure Requirements) Regulations, 2009 (“ICDR Regulations”) were notified in the year 2009 vide notification dated August 26, 2009. Between 2009-till date, numerous amendments have been made to the ICDR Regulations. Different types of offerings to raise funds in the primary market have been introduced. SEBI has also issued various informal guidance/ interpretative letters regarding interpretation of various provisions of the ICDR Regulations. Further, there have been changes in market practices and regulatory environment over a period of time. A need was thus felt to review and realign the ICDR Regulations with these developments and to ensure that they reflect the best practices adopted globally. In view of the same, the Securities and Exchange Board of India (“SEBI”) constituted the Issue of Capital & Disclosure Requirements Committee (“ICDR Committee”) under the Chairmanship of Shri Prithvi Haldea in June, 2017, to review the ICDR Regulations with the following objectives:

- a) To simplify the language and complexities in the regulations;
- b) To incorporate changes/ new requirements which have occurred due to change in market practices and regulatory environment;
- c) To make the regulations more readable and easier to understand.

B. Approach adopted in the process

2. The ICDR Committee while reviewing the regulations and the schedules, decided the following approach:

- Simplify language and structure of the regulations to enhance its readability;
- Separate the chapters on the basis of the type of offering so that all relevant information pertaining to the regulations relating to a particular type of offering are available at one place;

- Align the regulations in line with the various informal guidance/ interpretative letters/ frequently asked questions regarding interpretation of various provisions of the regulations, issued by SEBI from time to time;
- Update the regulations with the changes that have taken place in the last few years, including in the Companies Act, 2013, adoption of Indian Accounting Standards, various ICDR related circulars, SEBI (Share Based Employee Benefit) Regulations, 2014, SEBI (Substantial Acquisition of Shares and Takeover) Regulations, 2011, ASBA, abolition of MRTP, etc.
- To identify policy changes in line with the present market practices and the prevailing regulatory environment.

2.1 The ICDR Committee suggested certain policy changes. These suggestions were also taken to the Primary Market Advisory Committee (PMAC) of SEBI which comprises of eminent representatives from the Ministry of Finance, Industry, Market Participants, academicians, the Institute of Chartered Accountants of India and the Institute of Company Secretaries of India. The recommendations made by PMAC are placed at [Annexure 'A'](#). Few of the **key recommendations proposed by PMAC** are as follows:

- (i) To align the definitions of Promoter and Promoter Group with the Companies Act, 2013;
- (ii) To restrict the disclosures of group companies to information related to related party transactions and do away with the requirements pertaining to financial information, litigations etc.
- (iii) To increase the threshold for filing of Draft Letter of Offer for rights issue from the current size of Rs. 50 lakh to Rs. 10 crore and above.
- (iv) To enable Issuers to undertake public issues whose directors were debarred by the Board in the past and such directors have completed the debarment period.
- (v) In case of IPOs, to do away with the requirement that the aggregate of the proposed issue and all previous issues made in the same financial year not to exceed five times the issuer's pre-issue network.

- (vi) To allow foreign venture capital funds to contribute towards minimum promoter's contribution, in addition to Alternative Investment Funds.
- (vii) To decrease the requirement of announcing floor price/ price band from 5 working days to 2 working days for IPOs.
- (viii) To make applicable the provisions of Monitoring Agency requirements to issuances by banks, public financial institutions and insurance companies.
- (ix) To allow extension of issue period, in case of IPOs and FPOs, even without modification in price band.
- (x) To cap the Application size for Non Institutional Investors at total issue size less QIB portion.
- (xi) To rationalize the requirements and contents of due diligence certificate.
- (xii) To introduce a new section on "Prospectus Summary" in place of the Sub-section "Prominent notes" to risk factors.
- (xiii) To extend the requirement of disclosing the shareholding of ten largest shareholders to shareholders holding 1% and above.
- (xiv) To reduce the disclosure of financials to latest 3 years on consolidated basis and to disclose the Standalone financials of the issuer company and the financials of the subsidiaries on the website of the issuer company.
- (xv) To incorporate the principles governing disclosures of Indian Accounting Standards (IndAS) Financials.
- (xvi) To rationalize the issue advertisements and also prescribe a format for advertisement on hoardings.
- (xvii) To reduce the minimum application size for anchor investors from Rs. 10 Crore to 2 Crore for SME issues, in view of the smaller size of SME public issues.
- (xviii) To enable the provisions for SME FPO and Rights Issue
- (xix) To increase the maximum post issue face value capital for a SME public issue from Rs. 25 Crore to Rs. 50 Crore.
- (xx) To merge the provisions of Institutional Placement Programme with those of Qualified Institutional Placement.

2.2 The draft Regulations, after incorporating the proposed policy changes are placed at [Annexure 'B'](#), wherein:

1. All the chapters have been categorized on the basis of the type of offering so that all relevant information pertaining to regulations relating to a particular type of offering are available at one place;
2. The procedural requirements have been specified through Schedules ([Annexure-C](#)) to the draft regulations;
3. The provisions have been rearranged based on their sequence in the public issue process and relevance;
4. The provisions of Companies Act, 1956 (wherever applicable), Companies Act, 2013, SEBI (Substantial Acquisition & Substantial Takeover) Regulations, 2011, SEBI (Share Based Employee Benefits) Regulations, 2014 have been suitably incorporated.
5. Various informal guidance /interpretative letters/ frequently asked questions/ Circulars regarding interpretation of various provisions of the regulations issued by SEBI from time to time have been suitably incorporated.
6. Chapters have been divided as follows:

CHAPTER	DETAILS
CHAPTER I	Preliminary
CHAPTER II	Initial Public Offer On Main Board
CHAPTER III	Rights Issue
CHAPTER IV	Further Public Offer
CHAPTER V	Preferential Issue
CHAPTER VI	Qualified Institutions Placement
CHAPTER VII	Initial Public Offer Of Indian Depository Receipts
CHAPTER VIII	Rights Issue Of Indian Depository Receipts
CHAPTER IX	Initial Public Offer / Rights Issue/ Further Public Offer by Small And Medium Enterprises
CHAPTER X	Institutional Trading Platform
CHAPTER XI	Bonus Issue
CHAPTER XII	Miscellaneous

7. Qualified Institutions Placement can now also be used to achieve the minimum public shareholding norms. Therefore, it is proposed to include the provisions

relating to offer for sale by promoters in order to achieve the minimum public shareholding norms in the chapter on QIP and to do away with the chapter on Institutional Placement Programme.

- References have also been included in brackets and highlighted suitably at the beginning of each Regulation/Sub-Regulation, as applicable, for easy reference to specific clauses of existing Regulations.

PUBLIC COMMENTS

Considering the importance of the draft ICDR regulations, public comments are solicited on the same. SEBI will examine the proposals of PMAC after receiving the public comments on the same. Specific comments/ suggestions as per the format given below would be highly appreciated.

Name of the person/entity/ intermediary/ investor			
Name of the Organization			
Sr. No.	Pertains to Regulation/ Sub Regulation/ Schedule/ Clause/ Sub-Clause (as applicable)	Proposed/ suggested changes	Rationale

Comments in the above format may please be mailed on or before May 25, 2018 to icdr-review@sebi.gov.in. The comments may also be sent by post to:-

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