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EXTRAORDINARY

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SECURITIES AND EXCHANGE BOARD OF INDIA

NOTIFICATION

Mumbai, the 11th September, 2018

SECURITIES AND EXCHANGE BOARD OF INDIA (ISSUE OF CAPITAL AND DISCLOSURE REQUIREMENTS) REGULATIONS, 2018

No. SEBI/LAD-NRO/GN/2018/31. - In exercise of the powers conferred by section 30 of the Securities and Exchange Board of India Act, 1992 (15 of 1992), the Board hereby makes the following regulations, namely:

CHAPTER I - PRELIMINARY

Short title and commencement

1. (1) These regulations may be called the Securities and Exchange Board of India (Issue of Capital and Disclosure Requirements) Regulations, 2018.

(2) They shall come into force on the sixtieth day from the date of its publication in the Official Gazette.

Definitions

2. (1) In these regulations, unless the context otherwise requires:

- (a) “Act” means the Securities and Exchange Board of India Act, 1992 [15 of 1992];
- (b) “advertisement” includes notices, brochures, pamphlets, show cards, catalogues, hoardings, placards, posters, insertions in newspaper, pictures and films in any print media or electronic media, radio, television programme;
- (c) “anchor investor” means a qualified institutional buyer who makes an application for a value of at least ten crore rupees in a public issue on the main board made through the book building process in accordance with these regulations or makes an application for a value of at least two crore rupees for an issue made in accordance with Chapter IX of these regulations;
- (d) “application supported by blocked amount (ASBA)” means an application for subscribing to a public issue or rights issue, along with an authorisation to self-certified syndicate bank to block the application money in a bank account;
- (e) “associate” means a person which is an associate of the issuer and as defined under the Companies Act, 2013;
- (f) “Board” means the Securities and Exchange Board of India established under the Act;

- (g) “book building” means a process undertaken to elicit demand and to assess the price for determination of the quantum or value or coupon of specified securities or Indian Depository Receipts, as the case may be, in accordance with these regulations;
- (h) “composite issue” means an issue of specified 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;
- (i) “control” shall have the same meaning as assigned to it under the Securities and Exchange Board of India (Substantial Acquisitions of Shares and Takeovers) Regulations, 2011;
- (j) “convertible debt instrument” means an instrument which creates or acknowledges indebtedness and is convertible into equity shares of the issuer at a later date at or without the option of the holder of the instrument, whether constituting a charge on the assets of the issuer or not;
- (k) “convertible security” means a security which is convertible into or exchangeable with equity shares of the issuer at a later date, with or without the option of the holder of such security and includes convertible debt instrument and convertible preference shares;
- (l) “designated stock exchange” means a recognised stock exchange having nationwide trading terminals chosen by the issuer on which securities of an issuer are listed or proposed to be listed for the purpose of a particular issue of specified securities under these regulations:
Provided that, the issuer may choose a different recognised stock exchange as a designated stock exchange for any subsequent issue of specified securities;
- (m) “draft letter of offer” means the draft letter of offer filed with the Board in relation to a rights issue under these regulations;
- (n) “draft offer document” means the draft offer document filed with the Board in relation to a public issue under these regulations;
- (o) “employee” means a permanent employee, working in India or outside India, of the issuer or of the promoters or subsidiary company of the issuer, or a director of the issuer, whether whole-time or not and does not include (i) promoters, (ii) a person belonging to the promoter group; or (iii) a director who either himself/herself or through their relatives or through any body corporate, directly or indirectly, holds more than ten per cent. of the outstanding equity shares of the issuer;
Provided that for the purposes of stock option schemes, employee shall have the same meaning as assigned to under the Securities and Exchange Board of India (Share Based Employee Benefits) Regulations, 2014;
- (p) “fugitive economic offender” shall mean an individual who is declared a fugitive economic offender under section 12 of the Fugitive Economic Offenders Act, 2018 (17 of 2018);
- (q) “further public offer” means an offer of specified securities by a listed issuer to the public for subscription and includes an offer for sale of specified securities to the public by any existing holders of such specified securities in a listed issuer;
- (r) “general corporate purposes” include such identified purposes for which no specific amount is allocated or any amount so specified towards general corporate purpose or any such purpose by whatever name called, in the draft offer document, draft letter of offer, or the offer document:
Provided that any issue related expenses shall not be considered as a part of general corporate purpose merely because no specific amount has been allocated for such expenses in the draft offer document, draft letter of offer or the offer document;
- (s) “green shoe option” means an option of allotting equity shares in excess of the equity shares offered in the public issue as a post-listing price stabilizing mechanism;
- (t) “group companies”, shall include such companies (other than promoter(s) and subsidiary/subsidiaries) with which there were related party transactions, during the period for which financial information is disclosed, as covered under the applicable accounting standards, and also other companies as considered material by the board of the issuer;

- (u) “housing finance company” means a deposit taking housing finance company registered with the National Housing Bank for carrying on the business of housing finance;
- (v) “infrastructure sector” shall include the following facilities/services:
 - i) transportation (including inter modal transportation), including the following:
 - A) roads, national highways, state highways, major district roads, other district roads and village roads, including toll roads, bridges, highways, road transport providers and other road-related services;
 - B) rail system, rail transport providers, metro rail roads and other railway related services;
 - C) ports (including minor ports and harbours), inland waterways, coastal shipping including shipping lines and other port related services;
 - D) aviation, including airports, heliports, airlines and other airport related services;
 - E) logistics services;
 - ii) agriculture, including the following:
 - A) infrastructure related to storage facilities;
 - B) construction relating to projects involving agro-processing and supply of inputs to agriculture;
 - C) construction for preservation and storage of processed agro-products, perishable goods such as fruits, vegetables and flowers including testing facilities for quality;
 - iii) water management, including the following:
 - A) water supply or distribution;
 - B) irrigation;
 - C) water treatment, etc.
 - iv) telecommunication, including the following:
 - A) basic or cellular, including radio paging;
 - B) domestic satellite service (i.e., satellite owned and operated by an Indian company for providing telecommunication service);
 - C) network of trunking, broadband network and internet services;
 - v) industrial, commercial and social development and maintenance, including the following:
 - A) real estate development, including an industrial park or special economic zone;
 - B) tourism, including hotels, convention centres and entertainment centres;
 - C) public markets and buildings, trade fair, convention, exhibition, cultural centres, sports and recreation infrastructure, public gardens and parks;
 - D) construction of educational institutions and hospitals;
 - E) other urban development, including solid waste management systems, sanitation and sewerage systems, etc.;
 - vi) power, including the following:
 - A) generation of power through thermal, hydro, nuclear, fossil fuel, wind and other renewable sources;
 - B) transmission, distribution or trading of power by laying a network of new transmission or distribution lines;
 - vii) petroleum and natural gas, including the following:
 - A) exploration and production;
 - B) import terminals;
 - C) liquefaction and re-gasification;
 - D) storage terminals;
 - E) transmission networks and distribution networks including city gas infrastructure;
 - viii) housing, including the following:
 - A) urban and rural housing including public or mass housing, slum rehabilitation etc;
 - B) other allied activities such as drainage, lighting, laying of roads, sanitation facilities etc.;

- ix) services provided by recognised stock exchanges and registered depositories, in relation to securities;
- x) other miscellaneous facilities or services, including the following:
 - A) mining and related activities;
 - B) technology related infrastructure;
 - C) manufacturing of components and materials or any other utilities or facilities required by the infrastructure sector like energy saving devices and metering devices, etc.;
 - D) environment related infrastructure;
 - E) disaster management services;
 - F) preservation of monuments and icons;
 - G) emergency services (including medical, police, fire, and rescue);
- xi) such other facility or service which, in the opinion of the board, constitutes infrastructure sector;
- (w) "initial public offer" means an offer of specified securities by an unlisted issuer to the public for subscription and includes an offer for sale of specified securities to the public by any existing holders of such specified securities in an unlisted issuer;
- (x) "institutional trading platform" means the trading platform for listing and trading of specified securities of issuers that comply with the eligibility criteria specified in regulation 288;
- (y) "institutional investor" means (i) qualified institutional buyer; or (ii) family trust or intermediaries registered with the Board, with net worth of more than five hundred crore rupees, as per the last audited financial statements, for the purposes of listing and/or trading on institutional trading platform in terms of Chapter X;
- (z) "issue size" includes offer through offer document and promoters' contribution brought in as part of the issue;
- (aa) "issuer" means a company or a body corporate authorized to issue specified securities under the relevant laws and whose specified securities are being issued and/or offered for sale in accordance with these regulations;
- (bb) "key managerial personnel" means the officers or personnel of the issuer who are members of its core management team (excluding board of directors) and includes members of the management one level below the executive directors of the issuer, functional heads and 'key managerial personnel' as defined under the Companies Act, 2013 or any other person whom the issuer may declare as a key managerial personnel;
- (cc) "lead manager" means a merchant banker registered with the Board and appointed by the issuer to manage the issue and in case of a book built issue, the lead manager(s) appointed by the issuer shall act as the book running lead manager(s) for the purposes of book building;
- (dd) "listed issuer" means an issuer whose equity shares are listed on a recognised stock exchange having nationwide trading terminals;
- (ee) "main board" means a recognised stock exchange having nationwide trading terminals, other than SME exchange;
- (ff) "net offer" means an offer of specified securities to the public but does not include reservations and promoters' contribution brought in as part of the issue;
- (gg) "net tangible assets" mean the sum of all net assets of the issuer, excluding intangible assets as defined in Accounting Standard 26 (AS 26) or Indian Accounting Standard (Ind AS) 38, as applicable, issued by the Institute of Chartered Accountants of India;
- (hh) "net worth" means the aggregate value of the paid-up share capital and all reserves created out of the profits and securities premium account and debit or credit balance of profit and loss account, after deducting the aggregate value of the accumulated losses, deferred expenditure and miscellaneous expenditure not written off, as per the audited balance sheet, but does not include reserves created out of revaluation of assets, write-back of depreciation and amalgamation;

- (ii) “nominated investor” means a qualified institutional buyer or private equity fund, who enters into an agreement with the lead manager(s) to subscribe to an issue, made in accordance with Chapter IX, in case of under-subscription or to receive or deliver the specified securities in the market-making process in such an issue;
Explanation: “private equity fund” means a fund registered with any regulatory authority or a fund established by any person registered with any regulatory authority;
- (jj) “non-institutional investor” means an investor other than a retail individual investor and qualified institutional buyer;
- (kk) “offer document” means a red herring prospectus, prospectus or shelf prospectus, as applicable, referred to under the Companies Act, 2013, in case of a public issue, and a letter of offer in case of a rights issue;
- (ll) “offer through offer document” means net offer and reservations;
- (mm) “persons acting in concert” shall have the same meaning as assigned to it under regulation 2(1)(q) of the Securities and Exchange Board of India (Substantial Acquisition of Shares and Takeovers) Regulations, 2011;
- (nn) “preferential issue” means an issue of specified securities by a listed issuer to any select person or group of persons on a private placement basis in accordance with Chapter V of these regulations and does not include an offer of specified securities made through employee stock option scheme, employee stock purchase scheme or an issue of sweat equity shares or depository receipts issued in a country outside India or foreign securities;
- (oo) “promoter” shall include a person:
 - i) who has been named as such in a draft offer document or offer document or is identified by the issuer in the annual return referred to in section 92 of the Companies Act, 2013; or
 - ii) who has control over the affairs of the issuer, directly or indirectly whether as a shareholder, director or otherwise; or
 - iii) in accordance with whose advice, directions or instructions the board of directors of the issuer is accustomed to act:
 Provided that nothing in sub-clause (iii) shall apply to a person who is acting merely in a professional capacity;
 Provided further that a financial institution, scheduled commercial bank, foreign portfolio investor other than Category III foreign portfolio investor, mutual fund, venture capital fund, alternative investment fund, foreign venture capital investor, insurance company registered with the Insurance Regulatory and Development Authority of India or any other category as specified by the Board from time to time, shall not be deemed to be a promoter merely by virtue of the fact that twenty per cent. or more of the equity share capital of the issuer is held by such person unless such person satisfy other requirements prescribed under these regulations;
- (pp) “promoter group” includes:
 - i) the promoter;
 - ii) an immediate relative of the promoter (i.e. any spouse of that person, or any parent, brother, sister or child of the person or of the spouse); and
 - iii) in case promoter is a body corporate:
 - A) a subsidiary or holding company of such body corporate;
 - B) any body corporate in which the promoter holds twenty per cent. or more of the equity share capital; and/or any body corporate which holds twenty per cent. or more of the equity share capital of the promoter;
 - C) any body corporate in which a group of individuals or companies or combinations thereof acting in concert, which hold twenty per cent. or more of the equity share capital in that body corporate and such group of individuals or companies or combinations thereof also holds twenty per

cent. or more of the equity share capital of the issuer and are also acting in concert; and

iv) in case the promoter is an individual:

- A) any body corporate in which twenty per cent. or more of the equity share capital is held by the promoter or an immediate relative of the promoter or a firm or Hindu Undivided Family in which the promoter or any one or more of their relative is a member;
- B) any body corporate in which a body corporate as provided in (A) above holds twenty per cent. or more, of the equity share capital; and
- C) any Hindu Undivided Family or firm in which the aggregate share of the promoter and their relatives is equal to or more than twenty per cent. of the total capital;

v) all persons whose shareholding is aggregated under the heading "shareholding of the promoter group":

Provided that a financial institution, scheduled bank, foreign portfolio investor other than Category III foreign portfolio investor, mutual fund, venture capital fund, alternative investment fund, foreign venture capital investor, insurance company registered with the Insurance Regulatory and Development Authority of India or any other category as specified by the Board from time to time, shall not be deemed to be promoter group merely by virtue of the fact that twenty per cent. or more of the equity share capital of the promoter is held by such person or entity:

Provided further that such financial institution, scheduled bank, foreign portfolio investor other than Category III foreign portfolio investor, mutual fund, venture capital fund, alternative investment fund and foreign venture capital investor insurance company registered with the Insurance Regulatory and Development Authority of India or any other category as specified by the Board from time to time shall be treated as promoter group for the subsidiaries or companies promoted by them or for the mutual fund sponsored by them;

(qq) "public financial institution" means a public financial institution as defined under the Companies Act, 2013;

(rr) "public issue" means an initial public offer or a further public offer;

(ss) "qualified institutional buyer" means:

- (i) a mutual fund, venture capital fund, alternative investment fund and foreign venture capital investor registered with the Board;
- (ii) a foreign portfolio investor other than Category III foreign portfolio investor, registered with the Board;
- (iii) a public financial institution;
- (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 of India;
- (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; and
- (xii) insurance funds set up and managed by the Department of Posts, India; and
- (xiii) systemically important non-banking financial companies.

- (tt) “qualified institutions placement” means issue of eligible securities by a listed issuer to qualified institutional buyers on a private placement basis and includes an offer for sale of specified securities by the promoters and/or promoter group on a private placement basis, in terms of these regulations;
- (uu) “relative” means a relative as defined under the Companies Act, 2013.
- (vv) “retail individual investor” means an individual investor who applies or bids for specified securities for a value of not more than two lakhs rupees;
- (ww) “retail individual shareholder” means a shareholder who applies or bids for specified securities for a value of not more than two lakhs rupees;
- (xx) “rights issue” means an offer of specified securities by a listed issuer to the shareholders of the issuer as on the record date fixed for the said purpose;
- (yy) “schedule” means schedule annexed to these regulations;
- (zz) “scheduled commercial bank” means scheduled commercial banks as included in the second schedule to the Reserve Bank of India Act, 1934;
- (aaa) “self-certified syndicate bank” means a banker to an issue registered with the Board, which offers the facility of ASBA;
- (bbb) “selling shareholder(s)” means any shareholder of the issuer who is offering for sale the specified securities in a public issue in accordance with these Regulations;
- (ccc) “securities laws” means the Act, the Securities Contracts (Regulation) Act, 1956, the Depositories Act, 1996 and the rules and regulations made thereunder and the general or special orders, guidelines or circulars made or issued by the Board thereunder and the provisions of the Companies Act, 2013 or any previous company law and any subordinate legislation framed thereunder, which are administered by the Board ;
- (ddd) “SME exchange” means a trading platform of a recognised stock exchange having nationwide trading terminals permitted by the Board to list the specified securities issued in accordance with Chapter IX and includes a stock exchange granted recognition for this purpose but does not include the Main Board;
- (eee) “specified securities” means equity shares and convertible securities;
- (fff) “stabilising agent” means a merchant banker who is responsible for stabilising the price of equity shares under a green shoe option, in terms of these regulations;
- (ggg) “stock exchange” means any recognised stock exchange having nationwide trading terminals chosen by the issuer on which securities of an issuer are listed or proposed to be listed for the purpose of a particular issue of specified securities under these regulations, other than an SME exchange;
- (hhh) “syndicate member” means an intermediary registered with the Board and who is permitted to accept bids, applications and place orders with respect to the issue and carry on the activity as an underwriter;
- (iii) “systemically important non-banking financial companies” means a non-banking financial company registered with the Reserve Bank of India and recognised as systemically important non-banking financial company by the Reserve Bank of India;
- (jjj) “unlisted issuer” means an issuer which is not a listed issuer;
- (kkk) “valuer” means a person who is registered under section 247 of the Companies Act, 2013 and the relevant rules framed thereunder or as specified by the Board;
- (lll) “wilful defaulter” means a person or an issuer who or which is categorized as a wilful defaulter by any bank or financial institution (as defined under the Companies Act, 2013) or consortium thereof, in accordance with the guidelines on wilful defaulters issued by the Reserve Bank of India;
- (mmm) “working day” means all days on which commercial banks in the city as specified in the offer document are open for business;

Explanation: For the purpose of this clause, in respect of -

- (a) announcement of price band; and
- (b) bid/issue period,

working day shall mean all days, excluding Saturdays, Sundays and public holidays, on which commercial banks in the city as notified in the offer document are open for business;

(c) the time period between the bid/ issue closing date and the listing of the specified securities on the stock exchanges, working day shall mean all trading days of the stock exchanges, excluding Sundays and bank holidays, as per circulars issued by the Board.

(2) All other words and expressions used but not defined in these regulations, but defined in the Act or the Companies Act, 2013, the Securities Contracts (Regulation) Act, 1956, the Depositories Act, 1996 and/or the rules and regulations made thereunder shall have the same meaning as respectively assigned to them in such statutes or rules or regulations or any statutory modification or re-enactment thereto, as the case may be.

Applicability of the regulations

3. Unless otherwise provided, these regulations shall apply to the following:

- (a) an initial public offer by an unlisted issuer;
- (b) a rights issue by a listed issuer; where the aggregate value of the issue is ten crore rupees or more;
- (c) a further public offer by a listed issuer;
- (d) a preferential issue by a listed issuer;
- (e) a qualified institutions placement by a listed issuer;
- (f) an initial public offer of Indian depository receipts;
- (g) a rights issue of Indian depository receipts;
- (h) an initial public offer by a small and medium enterprise;
- (i) a listing on the institutional trading platform through an issue or without an issue; and
- (j) a bonus issue by a listed issuer.

Provided that in case of rights issue of size less than ten crore rupees, the issuer shall prepare the letter of offer in accordance with requirements as specified in these regulations and file the same with the Board for information and dissemination on the Board's website.

Provided further that these regulations shall not apply to issue of securities under clause (b), (d) and (e) of sub-regulation (1) of regulation 9 of Securities and Exchange Board of India (Substantial Acquisition of Shares and Takeovers) Regulations, 2011.