

## **CHAPTER III - RIGHTS ISSUE**

### **PART I: ELIGIBILITY REQUIREMENTS**

#### **Reference date**

**60.** Unless otherwise provided in this Chapter, an issuer offering specified securities of aggregate value of ten crore rupees or more, through a rights issue shall satisfy the conditions of this Chapter at the time of filing the draft letter of offer with the Board and also at the time of filing the final letter of offer with the stock exchanges, as the case may be.

#### **Entities not eligible to make a rights issue**

**61.** An issuer shall not be eligible to make a rights issue of specified securities:

- a) if the issuer, any of its promoters, promoter group or directors of the issuer are debarred from accessing the capital market by the Board;
- b) if any of the promoters or directors of the issuer is a promoter or director of any other company which is debarred from accessing the capital market by the Board.
- c) if any of its promoters or directors is a fugitive economic offender.

**Explanation:** The restrictions under (a) and (b) above will not apply to the promoters or directors of the issuer who were debarred in the past by the Board and the period of debarment is already over as on the date of filing of the draft letter of offer with the Board.

#### **General conditions**

**62.** (1) The issuer making a rights issue of specified securities shall ensure that:

- (a) it has made an application to one or more stock exchanges to seek an in-principle approval for listing of its specified securities on such stock exchanges and has chosen one of them as the designated stock exchange, in terms of **Schedule XIX**.
  - (b) all its existing partly paid-up equity shares have either been fully paid-up or have been forfeited;
  - (c) it has made firm arrangements of finance through verifiable means towards seventy five per cent. of the stated means of finance for the specific project proposed to be funded from issue proceeds, excluding the amount to be raised through the proposed rights issue or through existing identifiable internal accruals.
- (2) The amount for general corporate purposes, as mentioned in objects of the issue in the draft letter of offer and the letter of offer, shall not exceed twenty five per cent. of the amount raised by the issuer.
- (3) Where the issuer or any of its promoters or directors is a wilful defaulter, the promoters or promoter group of the issuer shall not renounce their rights except to the extent of renunciation within the promoter group.

## **PART II: ISSUE OF CONVERTIBLE DEBT INSTRUMENTS AND WARRANTS**

### **Additional requirements for issue of convertible debt instruments**

**63.** (1) In addition to other requirements laid down in these regulations, an issuer making a rights issue of convertible debt instruments shall also comply with the following conditions:

- a) it has obtained credit rating from at least one credit rating agency;
- b) it has appointed at least one debenture trustee in accordance with the provisions of the Companies Act, 2013 and the Securities and Exchange Board of India (Debenture Trustees) Regulations, 1993;
- c) it shall create a debenture redemption reserve in accordance with the provisions of the Companies Act, 2013 and rules made thereunder;
- d) if the issuer proposes to create a charge or security on its assets in respect of secured convertible debt instruments, it shall ensure that:
  - (i) such assets are sufficient to discharge the principal amount at all times;
  - (ii) such assets are free from any encumbrance;
  - (iii) where security is already created on such assets in favour of any existing lender or security trustee or the issue of convertible debt instruments is proposed to be secured by creation of security on a leasehold land, the consent of such lender or security trustee or lessor for a second or pari passu charge has been obtained and submitted to the debenture trustee before the opening of the issue;
  - (iv) the security or asset cover shall be arrived at after reduction of the liabilities having a first or prior charge, in case the convertible debt instruments are secured by a second or subsequent charge.

(2) The issuer shall redeem the convertible debt instruments in terms of the letter of offer.

### **Roll over of non-convertible portion of partly convertible debt instruments**

**64.** (1) The non-convertible portion of partly convertible debt instruments issued by a listed issuer, the value of which exceeds ten crore rupees, may be rolled over, subject to compliance with the provisions of the Companies Act, 2013 and the following conditions:

- (a) seventy five per cent. of the holders (in value) of the convertible debt instruments of the issuer have, through a resolution, approved the rollover through postal ballot;
- (b) the issuer has, along with the notice for passing the resolution, sent to all holders of the convertible debt instruments, an auditors' certificate on the cash flow of the issuer and with comments on the liquidity position of the issuer;

- (c) the issuer has undertaken to redeem the non-convertible portion of the partly convertible debt instruments of all the holders of the convertible debt instruments who have not agreed to the resolution;
  - (d) credit rating has been obtained from at least one credit rating agency registered with the Board within a period of one month prior to the due date of redemption and has been communicated to the holders of the convertible debt instruments, before the roll over;
  - (2) The creation of fresh security and execution of fresh trust deed shall not be mandatory if the existing trust deed or the security documents provide for continuance of the security till redemption of secured convertible debt instruments:
- Provided that whether the issuer is required to create fresh security and to execute fresh trust deed or not shall be decided by the debenture trustee.

### **Conversion of optionally convertible debt instruments into equity shares**

**65.** (1) An issuer shall not convert its optionally convertible debt instruments into equity shares unless the holders of such convertible debt instruments have sent their positive consent to the issuer and non-receipt of reply to any notice sent by the issuer for this purpose shall not be construed as consent for conversion of any convertible debt instruments.

(2) Where the value of the convertible portion of any listed convertible debt instruments issued by an issuer exceeds ten crores and the issuer has not determined the conversion price of such convertible debt instruments at the time of making the issue, the holders of such convertible debt instruments shall be given the option of not converting the convertible portion into equity shares:

Provided that where the upper limit on the price of such convertible debt instruments and justification thereon is determined and disclosed to the investors at the time of making the issue, it shall not be necessary to give such option to the holders of the convertible debt instruments for converting the convertible portion into equity share capital within the said upper limit

(3) Where an option is to be given to the holders of the convertible debt instruments in terms of sub-regulation (2) and if one or more of such holders do not exercise the option to convert the instruments into equity share capital at a price determined in the general meeting of the shareholders, the issuer shall redeem that part of the instruments within one month from the last date by which option is to be exercised, at a price which shall not be less than its face value.

Provided that the provisions of sub-regulation (3) shall not apply if such redemption is in terms of the disclosures made in the offer document.

### **Issue of convertible debt instruments for financing**

**66.** An issuer shall not issue convertible debt instruments for financing or for providing loans to or for acquiring shares of any person who is part of the promoter group or group companies:

Provided that an issuer shall be eligible to issue fully convertible debt instruments for these purposes if the period of conversion of such debt instruments is less than eighteen months from the date of issue of such debt instruments.

### **Issue of warrants**

**67.** An issuer shall be eligible to issue warrants subject to the following:

- a) the tenure of such warrants shall not exceed eighteen months from their date of allotment in the rights issue;
- b) a specified security may have one or more warrants attached to it;
- c) the price or formula for determination of exercise price of the warrants shall be determined upfront and disclosed in the letter of offer and at least twenty-five per cent. of the consideration amount based on the exercise price shall also be received upfront;

Provided that in case the exercise price of warrants is based on a formula, twenty-five per cent. consideration amount calculated as per the formula with reference date being the record date shall be received upfront.

- d) in case the warrant holder does not exercise the option to take equity shares against any of the warrants held by the warrant holder, within three months from the date of payment of consideration, such consideration made in respect of such warrants shall be forfeited by the issuer.

### **PART III: RECORD DATE**

**68.** (1) The issuer shall announce a record date for the purpose of determining the shareholders eligible to apply for specified securities in the proposed rights issue for such period as may be specified in the Securities and Exchange Board of India (Listing Obligations and Disclosure Requirements) Regulations, 2015.

(2) The issuer shall not withdraw its rights issue after announcement of the record date. However, if the issuer withdraws the rights issue after announcing the record date, it shall not be eligible to make an application for listing of any of its specified securities on any stock exchange for a period of twelve months from the record date announced under sub-regulation (1):

Provided that the issuer may seek listing of its equity shares allotted pursuant to conversion or exchange of convertible securities, ESOPs or exercise of warrants issued prior to the announcement of the record date, on the stock exchange where its securities are listed.

### **PART IV – APPOINTMENT OF LEAD MANAGERS, OTHER INTERMEDIARIES AND COMPLIANCE OFFICER**

**69.** (1) The issuer shall appoint one or more merchant bankers, which are registered with the Board, as lead manager(s) to the issue.

(2) Where the issue is managed by more than one lead manager, the rights, obligations and responsibilities, relating *inter alia* to disclosures, allotment, refund and underwriting obligations, if any, of each lead manager shall be predetermined and be disclosed in the draft letter offer and the letter of offer as specified in **Schedule I**:

(3) At least one lead manager to the issue shall not be an associate (as defined under the Securities and Exchange Board of India (Merchant Bankers) Regulations, 1992) of the issuer and if any of the lead manager is an associate of the issuer, it shall disclose itself as an associate of the issuer and its role shall be limited to marketing of the issue.

(4) The issuer shall, in consultation with the lead manager(s), appoint other intermediaries which are registered with the Board after the lead manager(s) have independently assessed the capability of other intermediaries to carry out their obligations.

(5) The issuer shall enter into an agreement with the lead manager(s) in the format specified in **Schedule II** and also enter into agreements with other intermediaries as required under the respective regulations applicable to the intermediary concerned:

Provided that such agreements may include such other clauses as the issuer and the intermediaries may deem fit without diminishing or limiting in any way the liabilities and obligations of the lead manager(s), other intermediaries and the issuer under the Act, the Companies Act, 2013 or the Companies Act, 1956 (to the extent applicable), the Securities Contracts (Regulation) Act, 1956, the Depositories Act, 1996 and the rules and regulations made thereunder or any statutory modification or statutory enactment thereof:

Provided further that in case of ASBA process, the issuer shall take cognisance of the deemed agreement of the issuer with the self-certified syndicate banks.

(6) The issuer shall appoint bankers to an issue, at centres as specified in **Schedule XII**.

(7) The issuer shall appoint a registrar to the issue registered with the Board, which has connectivity with all the depositories:

Provided that if the issuer itself is a registrar, it shall not appoint itself as a registrar to the issue;

Provided further that a lead manager shall not act as a registrar to the issue in which it is also handling the post-issue responsibilities.

(8) The issuer shall appoint a compliance officer who shall be responsible for monitoring the compliance of the securities laws and for redressal of investors' grievances.

## **PART V: DISCLOSURES IN AND FILING OF LETTERS OF OFFER**

### **Disclosures in the draft letter of offer and letter of offer**

**70.** (1) The draft letter of offer and letter of offer shall contain all material disclosures which are true and adequate to enable the applicants to take an informed investment decision.

(2) Without prejudice to the generality of sub-regulation (1), the draft letter of offer and letter of offer shall contain disclosures as specified in **Part A or Part B of Schedule VI, as applicable.**

(3) The lead manager(s) shall exercise due diligence and satisfy themselves about all aspects of the issue including the veracity and adequacy of disclosure in the draft letter of offer and the letter of offer.

(4) The lead manager(s) shall call upon the issuer, its promoters and its directors to fulfil their obligations as disclosed by them in the draft letter of offer and letter of offer and as required in terms of these Regulations.

(5) The lead manager(s) shall ensure that the information contained in the draft letter of offer and letter of offer and the particulars as per audited financial statements in the letter of offer are not more than six months old from the issue opening date.

(6) An issuer shall make disclosures in the draft letter of offer, letter of offer and abridged letter of offer, if the issuer or any of its promoters or directors is a wilful defaulter.

### **Filing of the draft letter of offer and letter of offer**

**71.** (1) Prior to making a rights issue, the issuer shall, except in case of a fast track issue, file a draft letter of offer, with the concerned regional office of the Board under the jurisdiction of which the registered office of the issuer company is located, in accordance with **Schedule IV**, along with fees as specified in **Schedule III**, with the Board and with the stock exchange(s), through the lead manager(s).

Provided that the issuer shall, in case of fast track issue, shall file a letter of offer and pay fees as specified in Schedule III with the Board.

(2) The lead manager(s) shall submit the following to the Board along with the draft letter of offer:

- a) a certificate, confirming that an agreement has been entered into between the issuer and the lead manager(s) and includes content specified in **Schedule II**;
- b) a due diligence certificate as per **Form A of Schedule V**;
- c) in case of an issue of convertible debt instruments, a due diligence certificate from the debenture trustee as per **Form B of Schedule V**;
- d) A certificate confirming compliance of the conditions specified in **Part E of Schedule VI**, if applicable.

(3) The issuer shall also file the draft letter of offer with the stock exchange(s) and shall submit to such stock exchange(s), the Permanent Account Number, bank account number and passport number of its promoters where they are individuals, and Permanent Account Number, bank account number, company registration number or equivalent and the address of the Registrar of Companies with which the promoter is registered, where the promoter is a body corporate.

(4) The Board may specify changes or issue observations, if any, on the draft letter of offer within thirty days from the later of the following dates:

- (a) the date of receipt of the draft letter of offer, as applicable, under sub-regulation (1); or
- (b) the date of receipt of satisfactory reply from the lead manager(s), where the Board has sought any clarification or additional information from them; or
- (c) the date of receipt of clarification or information from any regulator or agency, where the Board has sought any clarification or information from such regulator or agency; or
- (d) the date of receipt of a copy of in-principle approval letter issued by the stock exchanges.

(5) If the Board specifies any changes or issues observations on the draft letter of offer the issuer and lead manager(s) shall carry out such changes in the draft letter of offer and shall submit to the Board an updated draft letter of offer complying with the observations issued by the Board and highlighting all changes made in the draft letter of offer before filing the letter of offer with the stock exchanges.

(6) If there are any changes in the draft letter of offer in relation to the matters specified in **Schedule XVI**, an updated letter of offer or a fresh draft letter of offer, as the case may be, shall be filed with the Board along with fees specified in **Schedule III**.

(7) The lead manager(s) shall submit the following documents to the Board after issuance of observations by the Board or after expiry of the period stipulated in sub-regulation (4) of regulation 71 if the Board has not issued observations:

(a) a statement certifying that all changes, suggestions and observations made by the Board have been incorporated in the letter of offer;

(b) a due diligence certificate as per **Form C of Schedule V**, at the time of submission of the letter of offer with stock exchange(s);

(c) a due diligence certificate as per **Form D of Schedule V**, in the event the issuer has made a disclosure of any material development by issuing a public notice.

(8) Copy of the letter of offer shall also be filed with the Board and the stock exchanges through the lead manager simultaneously with filing of the letter of offer with the designated stock exchange.

(9) The draft letter of offer and letter of offer shall also be furnished to the Board in a soft copy.

#### **Draft letter of offer and letter of offer to be available to the public**

**72.** (1) The draft letter of offer filed with the Board shall be made public for comments, if any, for a period of at least twenty one days from the date of filing, by hosting it on the websites of the Board, stock exchanges where specified securities are proposed to be listed and the lead manager(s) associated with the issue.

(2) The issuer shall, within two days of filing of the draft letter of offer with the Board, make a public announcement in one English national daily newspaper with wide circulation, one Hindi national daily newspaper with wide circulation and one regional language newspaper with wide circulation at the place where the registered office of the issuer is situated, disclosing to the public the fact of filing of the draft letter of offer with the Board and inviting the public to provide their comments to the Board, the issuer or to the lead manager(s) in respect of the disclosures made in the draft letter of offer.

(3) The lead manager(s) shall, after expiry of the period stipulated in sub-regulation (1), file with the Board, details of the comments received by them or the issuer from the public, on the draft offer document, during that period and the consequential changes, if any, that are required to be made in the draft offer document.

(4) The issuer and the lead manager(s) shall ensure that the letters of offer are hosted on the websites as required under these regulations and its contents are the same as the versions as filed with the Board and the stock exchanges, as applicable.

(5) The lead manager(s) and the stock exchanges shall provide copies of the draft letter of offer to the public as and when requested and may charge a reasonable sum for providing a copy of the same.

#### **PART VI: PRICING**

**73.** (1) The issuer shall decide the issue price, in consultation with the lead manager(s), before determining the record date, which shall be determined in consultation with the designated stock exchange.

(2) The issue price shall not be less than the face value of the specified securities.

(3) The issuer shall disclose the issue price in the letter of offer filed with the Board and the stock exchange(s).

## **PART VII: ISSUANCE CONDITIONS AND PROCEDURE**

### **Reservations**

**74.** (1) The issuer shall make a rights issue of equity shares only if it has made reservation of equity shares of the same class in favour of the holders of outstanding compulsorily convertible debt instruments, if any, in proportion to the convertible part thereof.

(2) The equity shares so reserved for the holders of fully or partly compulsorily convertible debt instruments shall be issued to the holder of such convertible debt instruments or warrants at the time of conversion of such convertible debt instruments, on the same terms at which the equity shares offered in the rights issue were issued.

(3) Subject to other applicable provision of these regulations, the issuer may make reservation for its employees along with rights issue subject to the condition that the value of allotment to any employee shall not exceed two lakhs rupees.

Provided that in the event of under-subscription in the employee reservation portion, the unsubscribed portion may be allotted on a proportionate basis, for a value in excess of two lakhs rupees, subject to the total allotment to an employee not exceeding five lakhs rupees.

### **Abridged letter of offer**

**75.** (1) The abridged letter of offer shall contain the disclosures as specified by the Board in **Part F of Schedule VI** and shall not contain any matter extraneous to the contents of the letter of offer.

(2) Every application form distributed by the issuer or any other person in relation to the issue shall be accompanied by a copy of the abridged letter of offer.

### **ASBA**

**76.** The issuer shall provide the ASBA facility in the manner specified by the Board where not more than one payment option is provided.

Provided that the applicants in a rights issue shall be eligible to make applications through ASBA facility only if such applicant: (i) is holding equity shares in dematerialised mode; (ii) has not renounced entitlement in part or in full; and (iii) is not a renouncee.

Provided further that payment made for application for any reserved portion outside the issue period can be through electronic banking modes.

### **Availability of letter of offer and other issue materials**

**77.** (1) The lead manager(s) shall ensure availability of the letter of offer and other issue material including application forms with stock exchanges, registrar to issue, registrar and share transfer agents, depository participants, stock brokers, underwriters, bankers to the issue, investors' associations and self certified syndicate banks before the opening of the issue.

(2) The abridged letter of offer, along with application form, shall be despatched through registered post or speed post or by courier service or by electronic transmission to all the existing shareholders at least three days before the date of opening of the issue.

(3) The letter of offer shall also be provided by the issuer or lead manager(s) to any existing shareholder who makes a request in this regard.

### **Conditions for making applications on plain paper**

**78.** (1) Shareholders who have not received the application form may make an application in writing on a plain paper, along with the requisite application money.

(2) Shareholders making an application on plain paper shall not be entitled to renounce their rights and shall not utilise the application form for any purpose including renunciation even if it is received subsequently.

(3) If a shareholder makes an application both in an application form as well as on a plain paper, both applications are liable to be rejected.

### **Prohibition on payment of incentives**

**79.** Any person connected with the issue, shall not offer any incentive, whether direct or indirect, in any manner, whether in cash or kind or services or otherwise to any person for making an application in the rights issue, except for fees or commission for services rendered in relation to the issue.

### **Security deposit**

**80.** (1) The issuer shall, before the opening of the subscription list, deposit with the designated stock exchange, an amount calculated at the rate of one per cent. of the issue size in the manner specified by the Board and/or stock exchange(s).

(2) The amount specified in sub-regulation (1) shall be refundable or forfeitable in the manner specified by the Board.

### **Underwriting**

**81.** (1) If the issuer desires to have the issue underwritten, it shall appoint underwriters in accordance with the Securities and Exchange Board of India (Underwriters) Regulations, 1993. Provided that the issue can be underwritten only to the extent of entitlement of shareholders other than the promoters and promoter group.

(2) In case of every underwritten issue, the lead manager(s) shall undertake minimum underwriting obligations as specified in the Securities and Exchange Board of India (Merchant Bankers) Regulations, 1992.

### **Monitoring agency**

**82.** (1) If the issue size exceeds one hundred crore rupees, the issuer shall make arrangements for the use of proceeds of the issue to be monitored by a public financial institution or by a scheduled commercial bank named in the letter of offer as a banker of the issuer:

Provided that nothing contained in this clause shall apply to an issue of specified securities made by a bank or public financial institution or an insurance company.

(2) The monitoring agency shall submit its report to the issuer in the format specified in **Schedule XI** on a quarterly basis, till at least ninety five per cent. of the proceeds of the issue, excluding the proceeds raised for general corporate purposes, have been utilised.

(3) The board of directors and the management of the issuer shall provide their comments on the findings of the monitoring agency as specified in **Schedule XI**.

(4) The issuer shall, within forty five days from the end of each quarter, publicly disseminate the report of the monitoring agency by uploading the same on its website as well as submitting the same to the stock exchange(s) on which its equity shares are listed.

### **Public communications, publicity materials, advertisements and research reports.**

**83.** All public communication, publicity materials, advertisements and research reports shall comply with the provisions of **Schedule IX**.

### **Issue-related advertisements**

**84.** (1) The issuer shall issue an advertisement in at least one English national daily newspaper with wide circulation, one Hindi national daily newspaper with wide circulation and one regional language daily newspaper with wide circulation, at the place where registered office of the issuer is situated, at least three days before the date of opening of the issue, disclosing the following:

- a) the date of completion of despatch of abridged letter of offer and the application form;
- b) the centres other than registered office of the issuer where the shareholders or the persons entitled to receive the rights entitlements may obtain duplicate copies of the application form in case they do not receive the application form within a reasonable time after opening of the rights issue;



- c) a statement that if the shareholders entitled to receive the rights entitlements have neither received the original application forms nor they are in a position to obtain the duplicate form, they may make application in writing on a plain paper to subscribe to the rights issue along with a format specifying therein necessary particulars such as name, address, ratio of rights issue, issue price, number of equity shares held, ledger folio numbers, depository participant ID, client ID, number of equity shares entitled and applied for, additional shares if any, amount to be paid along with application, and particulars of cheque, etc. to be drawn in favour of the issuer's account;
- d) a statement that the applications can be directly sent by the shareholders through registered post together with the application monies to the issuer's designated official at the address given in the advertisement;
- e) a statement to the effect that if the shareholder makes an application using the application form as well as plain paper, both the applications shall be liable to be rejected at the option of the issuer.

(2) During the period the issue is open for subscription, no advertisement shall be released giving an impression that the issue has been fully subscribed or oversubscribed, or indicating investors' response to the issue.

(3) An announcement regarding closure of issue shall be made only after the lead manager(s) is satisfied that at least ninety per cent. of the offer through letter of offer has been subscribed and a certificate has been obtained to that effect from the registrar to the issue:

Provided that such an announcement shall not be made before the date on which the issue is to be closed except for issue closing advertisement made in the format prescribed in these regulations.

### **Opening of the issue**

**85.** Subject to the compliance with the provisions of the Companies Act, 2013, a rights issue may be opened within twelve months from the date of issuance of the observations by the Board under regulation 71.

Provided that in case of a fast track issue, the issue shall open within twelve months from the record date.

### **Minimum subscription**

**86.** (1) The minimum subscription to be received in the issue shall be at least ninety per cent. of the offer through the offer document.

(2) In the event of non-receipt of minimum subscription referred to in sub-regulation (1), all application monies received shall be refunded to the applicants forthwith, but not later than fifteen days from the closure of the issue.

### **Period of subscription**

**87.** The rights issue shall be kept open for subscription for a minimum period of fifteen days and for a maximum period of thirty days.

### **Payment options**

**88.** The issuer shall give one of the following payment options to all the shareholders for each type of instrument:

- a) part payment on application with balance money to be paid in calls; or
- b) full payment on application:

Provided that the part payment, if any, on application shall not be less than twenty five per cent. of the issue price and such issuer shall obtain the necessary regulatory approvals to facilitate the same.

**Manner of calls**

**89.** If the issuer proposes to receive subscription monies in calls, it shall ensure that the outstanding subscription money is called within twelve months from the date of allotment in the issue and if any applicant fails to pay the call money within the said twelve months, the equity shares on which there are calls in arrear along with the subscription money already paid on such shares shall be forfeited:

Provided further that it shall not be necessary to call the outstanding subscription money within twelve months, if the issuer has appointed a monitoring agency in terms of regulation 82.

**Allotment procedure and basis of allotment**

**90.** (1) The issuer shall not make any allotment in excess of the specified securities offered through the letter of offer.

(2) Allotment shall be made in the following manner:

- a) Full allotment to those eligible shareholders who have applied for their rights entitlement either in full or in part and also to the renouncee(s), who has/have applied for the specified securities renounced in their favour, in full or in part, as adjusted for fractional entitlement
- b) Allotment to eligible shareholders who having applied for the specified securities in full to the extent of their rights entitlement and have also applied for additional specified securities, shall be made as far as possible on an equitable basis having due regard to the number of specified securities held by them on the record date, provided there is an under-subscribed portion after making allotment in (a) above.
- c) Allotment to the renouncees, who having applied for the specified securities renounced in their favour and also applied for additional specified securities, provided there is an under-subscribed portion after making full allotment specified in (a) and (b) above. The allotment of such additional specified securities may be made on a proportionate basis.

(3) The authorised employees of the designated stock exchange along with the lead manager(s) and registrars to the issue shall ensure that the basis of allotment is finalised in a fair and proper manner as may be prescribed by the Board.

**Allotment, refund and payment of interest**

**91.** (1) The issuer and lead manager(s) shall ensure that the specified securities are allotted and/or application monies are refunded or unblocked within such period as may be specified by the Board.

(2) The lead manager(s) shall ensure that the allotment, credit of dematerialised securities, refunding or unblocking of application monies, as may be applicable, are done electronically.

(3) Where the specified securities are not allotted and/or application monies are not refunded or unblocked within the period stipulated in sub-regulation (1) above, the issuer shall undertake to pay interest at the rate of fifteen per cent. per annum to the shareholders within such time as disclosed in the draft letter of offer and the letter of offer and the lead manager(s) shall ensure the same.

**Post-issue advertisements**

**92.** (1) The lead manager(s) shall ensure that an advertisement giving details relating to subscription, basis of allotment, number, value and percentage of all applications including ASBA, number, value and percentage of successful allottees for all applications including ASBA, date of completion of despatch of refund orders, as applicable, or instructions to self-certified syndicate banks by the Registrar, date of despatch of certificates or date of credit of specified securities, as applicable, and date of filing of listing application, etc. is released within ten days from the date of completion of the various activities in at least one English national daily newspaper with wide circulation, one Hindi national daily newspaper with wide circulation and one regional language daily newspaper with wide circulation at the place where registered office of the issuer is situated.

(2) Details specified in sub regulation (1) shall also be placed on the websites of the stock exchanges where the securities are listed.

#### **Post-issue responsibilities of the lead manager(s)**

**93.** (1) The responsibility of the lead manager(s) shall continue until completion of the issue process and for any issue related matter thereafter.

(2) The lead manager(s) shall regularly monitor redressal of investor grievances arising from any issue related activities.

(3) The lead manager(s) shall continue to be responsible for post-issue activities till the applicants have received the securities certificates, credit to their demat account or refund of application monies and the listing agreement is entered into by the issuer with the stock exchange and listing or trading permission is obtained.

(4) The lead manager(s) shall be responsible for and co-ordinate with the registrars to the issue and with various intermediaries at regular intervals after the closure of the issue to monitor the flow of applications from collecting bank branches and/ or self-certified syndicate banks, processing of the applications including application form for ASBA and other matters till the basis of allotment is finalised, despatch of security certificates or credit of the specified securities to the dematerialised accounts of the allottees, as applicable and unblocking of ASBA accounts/ despatch of refund orders are completed and securities are listed, as applicable.

(5) Any act of omission or commission on the part of any of the intermediaries noticed by the lead manager(s) shall be duly reported by them to the Board.

(6) In case there is a devolvment on underwriters, the lead manager(s) shall ensure that the notice for devolvment containing the obligation of the underwriters is issued within ten days from the date of closure of the issue.

(7) In case of undersubscribed issues that are underwritten, the lead manager(s) shall furnish information to the Board in respect of underwriters who have failed to meet their underwriting devolvment in the format specified in **Schedule XVIII**.

#### **Release of subscription money**

**94.** (1) The lead manager(s) shall confirm to the bankers to the issue by way of copies of listing and trading approvals that all formalities in connection with the issue have been completed and that the banker is free to release the money to the issuer or release the money for refund in case of failure of the issue.

(2) In case the issuer fails to obtain listing or trading permission from the stock exchanges where the specified securities were listed, it shall refund through verifiable means the entire monies received within seven days of receipt of intimation from stock exchanges rejecting the application for listing of specified securities, and if any such money is not repaid within eight days after the issuer becomes liable to repay it the issuer and every director of the company who is an officer in default shall, on and from the expiry of the eighth day, be jointly and severally liable to repay that money with interest at the rate of fifteen per cent. per annum.

(3) The lead manager(s) shall ensure that the monies received in respect of the rights issue are released to the issuer in compliance with the provisions of sub-section (3) of section 40 of the Companies Act, 2013, as applicable.

#### **Reporting of transactions of the promoters and promoter group**

**95.** The issuer shall ensure that all transactions in securities by the promoters and promoter group between the date of filing of the draft letter of offer or letter of offer, as the case may be, and the date of closure of the issue shall be reported to the stock exchanges where the specified securities of the issuer are to be listed, within twenty four hours of such transactions.

#### **Post-issue reports**

**96.** The lead manager(s) shall submit post-issue reports as follows:

- a) initial post-issue report as specified in **Part B of Schedule XVII**, within three working days of closure of the issue;
- b) final post-issue report as specified in **Part C of Schedule XVII**, within fifteen days of the date of finalization of basis of allotment or within fifteen days of refund of money in case of failure of the issue.

## **PART VIII: MISCELLEANEOUS**

### **Restriction on further capital issues**

**97.** An issuer shall not make any further issue of specified securities in any manner whether by way of public issue, rights issue, preferential issue, qualified institutions placement, issue of bonus shares or otherwise, except pursuant to an employee stock option scheme:

- a) in case of a fast track issue, during the period between the date of filing the letter of offer with the stock exchanges where the securities are proposed to be listed and the listing of the specified securities offered through the letter of offer or refund of application monies; or
- b) in case of other issues, during the period between the date of filing the draft letter of offer with the Board and the listing of the specified securities offered through the letter of offer or refund of application monies;

unless full disclosures regarding the total number of specified securities or amount proposed to be raised from such further issue are made in such draft letter of offer or letter of offer, as the case may be.

### **Alteration of rights of holders of specified securities**

**98.** The issuer shall not alter the terms (including the terms of issue) of specified securities which may adversely affect the interests of the holders of those specified securities, except with the consent in writing of the holders of not less than three-fourths of the specified securities of that class or with the sanction of a special resolution passed at a meeting of the holders of the specified securities of that class.

## **PART IX: FAST TRACK RIGHTS ISSUE**

### **Eligibility conditions**

**99.** Unless otherwise specified, nothing contained in sub-regulations (1), (2), (4) and (5) of regulation 71 shall apply if the issuer satisfies the following conditions for making a rights issue through the fast track route -

- a) the equity shares of the issuer have been listed on any stock exchange for a period of at least three years immediately preceding the reference date;
- b) the entire shareholding of the promoter group of the issuer is held in dematerialised form on the reference date;
- c) the average market capitalisation of public shareholding of the issuer is at least two hundred and fifty crore rupees;
- d) the annualised trading turnover of the equity shares of the issuer during six calendar months immediately preceding the month of the reference date has been at least two per cent. of the weighted average number of equity shares listed during such 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 been at least two per cent. of the weighted average number of equity shares available as free float during such six months' period;
- e) the annualized delivery-based trading turnover of the equity shares during six calendar months immediately preceding the month of the reference date has been at least ten per cent. of the annualized trading turnover of equity shares during such six months' period;

- f) the issuer has been in compliance with the equity listing agreement or the Securities and Exchange Board of India (Listing Obligations and Disclosure Requirements) Regulations, 2015, as applicable, for a period of at least three years immediately preceding the reference date:

Provided that if the issuer has not complied with the provisions of the listing agreement or the Securities and Exchange Board of India (Listing Obligations and Disclosure Requirements) Regulations, 2015, as applicable, relating to composition of board of directors, for any quarter during the last three years immediately preceding the reference date, but is compliant with such provisions at the time of filing of letter of offer, and adequate disclosures are made in the letter of offer about such non-compliances during the three years immediately preceding the reference date, it shall be deemed as compliance with the condition;

Provided further that imposition of only monetary fines by stock exchanges on the issuer shall not be a ground for ineligibility for undertaking issuances under this regulation;

- g) the issuer has redressed at least ninety five per cent. of the complaints received from the investors till the end of the quarter immediately preceding the month of the reference date;
- h) that no show-cause notices have been issued or prosecution proceedings have been initiated by the Board and pending against the issuer or its promoters or whole-time directors as on the reference date;
- i) the issuer or promoter or promoter group or director of the issuer has not settled any alleged violation of securities laws through the consent or settlement mechanism with the Board during three years immediately preceding the reference date;
- j) the equity shares of the issuer have not been suspended from trading as a disciplinary measure during last three years immediately preceding the reference date;
- k) there shall be no conflict of interest between the lead manager(s) and the issuer or its group companies in accordance with the applicable regulations.
- l) the promoters and promoter group shall mandatorily subscribe to their rights entitlement and shall not renounce their rights, except to the extent of renunciation within the promoter group or for the purpose of complying with minimum public shareholding norms prescribed under the Securities Contracts (Regulation) Rules, 1957;
- m) there are no audit qualifications on the audited accounts of the issuer in respect of those financial years for which such accounts are disclosed in the letter of offer.

**Explanation:** For the purpose of this regulation:

(i) “average market capitalisation of public shareholding” means the sum of daily market capitalisation of public shareholding for a period of one year up to the end of the quarter preceding the month in which the proposed issue was approved by the shareholders or the board of the issuer, as the case may be, divided by the number of trading days.

(ii) “public shareholding” shall have the same meaning as assigned to it under the Securities Contracts (Regulation) Rules, 1957.

(iii) “reference date” means the date of filing the letter of offer with the designated stock exchange.

(iv) “audit qualifications” for this regulation shall be those disclosed under applicable accounting standard relating to modification to the opinion in the independent auditor’s report and requires a qualified opinion, adverse opinion or disclaimer of opinion for material misstatements.

### **Issue conditions**

**100.** (1) The issuer shall file the letter of offer in accordance with sub-regulation 8 and 9 of regulation 71 and shall pay fees to the Board as specified in **Schedule III**.

(2) The lead manager(s) shall submit to the Board, the following documents along with the letter of offer:

- (a) a due diligence certificate as per **Form A of Schedule V** including additional confirmations as specified in **Form E of Schedule V**;

- (b) in case of a fast track issue of convertible debt instruments, a due diligence certificate from the debenture trustee as per **Form B** of **Schedule V**.