

## **CHAPTER IV - FURTHER PUBLIC OFFER**

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

#### **Reference date**

**101.** Unless otherwise provided in this Chapter, an issuer making a further public offer of specified securities shall satisfy the conditions of this Chapter as on the date of filing of the draft offer document with the Board and also as on the date of registering the offer document with the Registrar of Companies.

#### **Entities not eligible to make a further public offer**

**102.** An issuer shall not be eligible to make a further public offer:

- (a) if the issuer, any of its promoters, promoter group or directors, selling shareholders 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 the issuer or any of its promoters or directors is a wilful defaulter ;
- (d) if any of its promoters or directors is a fugitive economic offender.

**Explanation:** The restrictions under (a) and (b) above shall not apply to the persons or entities mentioned therein, 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 offer document with the Board.

#### **Eligibility requirements for further public offer**

**103.** (1) An issuer may make a further public offer, if it has changed its name within the last one year, at least fifty per cent. of the revenue for the preceding one full year has been earned by it from the activity indicated by its new name.

(2) An issuer not satisfying the condition stipulated in sub-regulation (1) may make a further public offer only if the issue is made through the book-building process and the issuer undertakes to allot at least seventy five per cent. of the net offer, to qualified institutional buyers and to refund full subscription money if it fails to make the said minimum allotment to qualified institutional buyers.

#### **General conditions**

**104.** (1) An issuer making a further public offer 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) it has entered into an agreement with a depository for dematerialisation of specified securities already issued and proposed to be issued;
- (c) all its existing partly paid-up equity shares have either been fully paid-up or have been forfeited;
- (d) 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 the issue proceeds, excluding the amount to be raised through the proposed public issue or through existing identifiable internal accruals.

(2) The amount for general corporate purposes, as mentioned in objects of the issue in the draft offer document and the offer document, shall not exceed twenty five per cent. of the amount being raised by the issuer.

**Explanation:** For the purposes of this regulation, “project” means the object for which monies are proposed to be raised to cover the objects of the issue.

#### **Additional conditions for an offer for sale**

**105.** Only such fully paid-up equity shares may be offered for sale to public which have been held by the selling shareholder(s) for a period of at least one year prior to the filing of the draft offer document:

Provided further that such holding period of one year shall be required to be complied with at the time of filing of the draft offer document.

Provided that in case the equity shares received on conversion or exchange of fully paid-up compulsorily convertible securities including depository receipts are being offered for sale, the holding period of such convertible securities, including depository receipts, as well as that of resultant equity shares together shall be considered for the purpose of calculation of one year period referred in this sub-regulation.

**Explanation:** If the equity shares arising out of the conversion or exchange of the fully paid-up compulsorily convertible securities are being offered for sale, the conversion or exchange should be completed prior to filing of the offer document (i.e. red herring prospectus in the case of a book built issue and prospectus in the case of a fixed price issue), provided full disclosures of the terms of conversion or exchange are made in the draft offer document.

Provided further that the requirement of holding the equity shares for a period of one year shall not apply:

- a) in case of an offer for sale of a government company or statutory authority or corporation or any special purpose vehicle set up and controlled by any one or more of them, which is engaged in the infrastructure sector;
- b) if the equity shares offered for sale were acquired pursuant to any scheme approved by a High Court under the sections 391 to 394 of the Companies Act, 1956, or approved by a tribunal or the Central Government under the sections 230 to 234 of the Companies Act, 2013, as applicable, in lieu of business and invested capital which had been in existence for a period of more than one year prior to approval of such scheme;
- c) if the equity shared offered for sale were issued under a bonus issue on securities held for a period of at least one year prior to the filing of the draft offer document with the Board and further subject to the following:
  - (i) such specified securities being issued out of free reserves and share premium existing in the books of account as at the end of the financial year preceding the financial year in which the draft offer document is filed with the Board; and
  - (ii) such equity shares not being issued by utilisation of revaluation reserves or unrealized profits of the issuer.

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

**106.** An issuer shall be eligible to make a further public offer of convertible debt instruments if its equity shares are already listed;

Provided that it is not in default in payment of interest or repayment of principal amount in respect of debt instruments issued by it to the public, if any, for a period of more than six months.

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

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

- a) it has obtained credit rating for such convertible debt instrument from one or more credit rating agencies;
- 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 public financial institutions or scheduled commercial banks or the issue of convertible debt instruments is proposed to be secured by creation of security on a leasehold land, the consent of such public financial institution, scheduled commercial bank 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 offer document.

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

**108.** 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 the debenture trustee shall decide if the issuer is required to create fresh security and to execute fresh trust deed.

#### **Conversion of optionally convertible debt instruments into equity share capital**

**109.** (1) The 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 crore rupees 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 or conversion formula 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.

(4) 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**

**110.** 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**

**111.** An issuer shall be eligible to issue warrants in a further public offer subject to the following conditions:

- (a) the tenure of such warrants shall not exceed eighteen months from the date of their allotment in the public 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 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 based on the cap price of the price band determined for the linked equity shares or convertible securities 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: PROMOTERS' CONTRIBUTION**

### **Requirement of minimum promoters' contribution not applicable in certain cases**

**112.** The requirements of minimum promoters' contribution shall not apply in case of:

- (a) an issuer which does not have any identifiable promoter;
- (b) where the equity shares of the issuer are frequently traded on a stock exchange for a period of at least three years and the issuer has a track record of dividend payment for at least three immediately preceding years:

Provided that where the promoters propose to subscribe to the specified securities offered to the extent greater than higher of the two options available in clause (a) of sub-regulation (1) of regulation 113, the subscription in excess of such percentage shall be made at a price

determined in terms of the provisions of regulation 164 or the issue price, whichever is higher.

**Explanation:** The reference date for the purpose of computing the annualised trading turnover referred to in the said Explanation shall be the date of filing the draft offer document with the Board and in case of a fast track issue, the date of filing the offer document with the Registrar of Companies, and before opening of the issue.

### **Minimum promoters' contribution**

**113.** (1) The promoters shall contribute in the public issue as follows:

- a) either to the extent of twenty per cent. of the proposed issue size or to the extent of twenty per cent. of the post-issue capital;
- b) in case of a composite issue (i.e. further public offer cum rights issue), either to the extent of twenty per cent. of the proposed issue size or to the extent of twenty per cent. of the post-issue capital excluding the rights issue component.

(2) In case of a public issue or composite issue of convertible securities, the minimum promoters' contribution shall be as follows:

- a) the promoters shall contribute twenty per cent. as stipulated in clause (a) or (b) of sub-regulation (1), as the case may be, either by way of equity shares or by way of subscription to the convertible securities:

Provided that if the price of the equity shares allotted pursuant to conversion is not pre-determined and not disclosed in the offer document, the promoters shall contribute only by way of subscription to the convertible securities being issued in the public issue and shall undertake in writing to subscribe to the equity shares pursuant to conversion of such securities.

- b) in case of any issue of convertible securities which are convertible or exchangeable on different dates and if the promoters' contribution is by way of equity shares (conversion price being pre-determined), such contribution shall not be at a price lower than the weighted average price of the equity share capital arising out of conversion of such securities.

(3) In case of a further public offer or composite issue where the promoters contribute more than the stipulated minimum promoters' contribution, the allotment with respect to excess contribution shall be made at a price determined in terms of the provisions of regulation 164 or the issue price, whichever is higher.

(4) In case the promoters have to subscribe to equity shares or convertible securities towards promoters' contribution, the promoters shall satisfy the requirements of this regulation at least one day prior to the date of opening of the issue and the amount of promoters' contribution shall be kept in an escrow account with a scheduled commercial bank and shall be released to the issuer along with the release of the issue proceeds:

Provided further that where the minimum promoters' contribution is more than one hundred crore rupees and the further public offer is for partly paid shares, the promoters shall bring in at least one hundred crore rupees before the date of opening of the issue and the remaining amount may be brought on a pro-rata basis before the calls are made to the public.

### **Explanation:**

- (I) For the purpose of this regulation, promoters' contribution shall be computed on the basis of the post-issue expanded capital:
  - (a) assuming full proposed conversion of convertible securities into equity shares;
  - (b) assuming exercise of all vested options, where any employee stock options are outstanding at the time of further public offer.
- (II) For computation of "weighted average price":
  - (a) "weight" means the number of equity shares arising out of conversion of such specified securities into equity shares at various stages;

- (b) “price” means the price of equity shares on conversion arrived at after taking into account predetermined conversion price at various stages.

### **Securities ineligible for minimum promoters’ contribution**

**114.** (1) For the computation of minimum promoters’ contribution, the following specified securities shall not be eligible:

- (a) specified securities acquired during the preceding three years, if these are:
    - i) acquired for consideration other than cash and revaluation of assets or capitalisation of intangible assets is involved in such transaction; or
    - ii) resulting from a bonus issue by utilisation of revaluation reserves or unrealised profits of the issuer or from bonus issue against equity shares which are ineligible for minimum promoters’ contribution;
  - (b) specified securities pledged with any creditor other than those for borrowings by the issuer or its subsidiaries.
- (2) Specified securities referred to in clauses (a) of sub-regulation (1) shall be eligible for the computation of promoters’ contribution, if such securities are acquired pursuant to a scheme which has been approved by the High Court under section 391 to 394 of the Companies Act, 1956 or approved by a tribunal or the Central Government under section 230 to 234 of the Companies Act, 2013.

## **PART IV: LOCK-IN AND RESTRICTIONS ON TRANSFERABILITY**

### **Lock-in of specified securities held by the promoters**

**115.** The specified securities held by the promoters shall not be transferable (hereinafter referred to as “locked-in”) for the periods as stipulated hereunder:

- (a) minimum promoters’ contribution including contribution made by alternative investment funds, or foreign venture capital investors, as applicable, shall be locked-in for a period of three years from the date of commencement of commercial production or from the date of allotment in the further public offer, whichever is later;
- (b) promoters’ holding in excess of minimum promoters’ contribution shall be locked-in for a period of one year:

Provided that the excess promoters’ contribution as provided in the proviso to clause (b) of regulation 112 shall not be subject to lock-in.

**Explanation:** For the purposes of this regulation, the expression "date of commencement of commercial production" means the last date of the month in which commercial production of the project in respect of which the funds raised are proposed to be utilised as stated in the offer document, is expected to commence.

### **Lock-in of specified securities lent to stabilising agent under green shoe option**

**116.** The lock-in provisions of this part shall not apply with respect to the specified securities lent to stabilising agent for the purpose of green shoe option, during the period starting from the date of lending of such specified securities and ending on the date on which they are returned to the lender in terms of sub-regulation (5) or (6) of regulation 153:

Provided that the specified securities shall be locked-in for the remaining period from the date on which they are returned to the lender.

### **Lock-in of party-paid securities**

**117.** Where the specified securities which are subject to lock-in are partly paid-up and the amount called-up on such specified securities is less than the amount called-up on the specified securities issued to the public, the lock-in shall end only on the expiry of three years after such specified securities have become pari passu with the specified securities issued to the public.

### **Inscription or recording of non-transferability**

**118.** The certificates of specified securities which are subject to lock-in shall contain the inscription “non-transferable” and specify the lock-in period and in case such specified securities are dematerialised, the issuer shall ensure that the lock-in is recorded by the depository.

### **Pledge of locked-in specified securities**

**119.** Specified securities held by the promoters and locked in may be pledged as collateral security for a loan granted by a scheduled commercial bank or a public financial institution or a systemically important non-banking finance company or a housing finance company, subject to the following:

- a) if the specified securities are locked-in in terms of clause (a) of regulation 115, the loan has been granted to the issuer company or its subsidiary/subsidiaries for the purpose of financing one or more of the objects of the issue and pledge of specified securities is one of the terms of sanction of the loan
- b) if the specified securities are locked-in in terms of clause (b) of regulation 115 and the pledge of specified securities is one of the terms of sanction of the loan.

### **Transferability of locked-in specified securities**

**120.** Subject to the provisions of the Securities and Exchange Board of India (Substantial Acquisition of shares and Takeovers) Regulations, 2011, the specified securities held by the promoters and locked-in as per regulation 115 may be transferred to another promoter or any person of the promoter group or a new promoter or a person in control of the issuer:

Provided that lock-in on such specified securities shall continue for the remaining period with the transferee and such transferee shall not be eligible to transfer them till the lock-in period stipulated in these regulations has expired.

## **PART V: APPOINTMENT OF LEAD MANAGERS, OTHER INTERMEDIARIES AND COMPLIANCE OFFICER**

**121.** (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 offer document and the offer document 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 managers is an associate of the issuer, it shall disclose itself as an associate of the issuer and its role shall be limited to the 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 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, in the case of an issue made through the book building process, appoint syndicate member(s) and in the case of any other issue, 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 issuer itself is a registrar, it shall not appoint itself as a registrar to the issue:

Provided further that the 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 VI: DISCLOSURES IN AND FILING OF OFFER DOCUMENTS**

### **Disclosures in the draft offer document and the offer document**

**122.** (1) The draft offer document and the offer document 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 red-herring prospectus, shelf prospectus and prospectus shall contain:

- (i) disclosures specified in the Companies Act, 2013; and
- (ii) disclosures specified in **Part A** of **Schedule VI**, subject to the provisions of **Parts C and D** thereof.

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

(4) The lead manager(s) shall call upon the issuer, its promoters and its directors or in case of an offer for sale, the selling shareholders, to fulfil their obligations as disclosed by them in the draft offer document and the offer document and as required in terms of these Regulations.

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

### **Filing of the draft offer document and offer documents**

**123.** (1) Prior to making a further public offer, the issuer shall file three copies of the draft offer document 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**, through the lead manager(s).

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

- a) a certificate, confirming that an agreement has been entered into between the issuer and the lead manager(s)
- 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 C** of **Schedule VI**.

(3) The issuer shall also file the draft offer document with the stock exchange(s) where the specified securities are proposed to be listed, and shall submit to the 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 on the draft offer document within a period of thirty days from the later of the following dates:

- a) the date of receipt of the draft offer document 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 exchange(s).

(5) If the Board specifies changes or issues observations on the draft offer document, the issuer and the lead manager(s) shall carry out such changes in the draft offer document and shall submit to the Board an updated draft offer document complying with the observations issued by the Board and highlighting all changes made in the draft offer document before registering or filing the offer documents with the Registrar of Companies or the appropriate authority, as applicable.

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

(7) Copy of the offer documents shall also be filed with the Board and the stock exchanges through the lead manager(s) simultaneously while registering the offer documents with Registrar of Companies.

(8) The draft offer document and the offer document shall also be furnished to the Board in a soft copy in the manner as may be specified.

(9) 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 123 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 offer document;
- b) a due diligence certificate as per **Form C** of **Schedule V**, at the time of registering of the offer document;
- c) a copy of the resolution passed by the board of directors of the issuer for allotting specified securities to promoters towards amount received against promoters' contribution, before opening of the issue;
- d) a certificate from a Chartered Accountant, before opening of the issue, certifying that promoters' contribution has been received in accordance with these regulations, accompanying therewith the names and addresses of the promoters who have contributed to the promoters' contribution and the amount paid and credited to the bank account of the issuer by each of them towards such contribution;
- e) 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.

#### **Draft offer document and offer document to be available to the public**

**124.** (1) The draft offer document 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 lead manager(s) associated with the issue.

(2) The issuer shall, within two days of filing the draft offer document 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 offer document with the Board and inviting the public to provide their

comments to the Board, the issuer or the lead manager(s) in respect of the disclosures made in the draft offer document.

(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 offer documents are hosted on the websites as required under these regulations and its contents are the same as the versions as filed with the Registrar of Companies, the Board and the stock exchanges, as applicable.

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

## **PART VII - PRICING**

### **Face value of equity shares**

**125.** The disclosure about the face value of equity shares shall be made in the draft offer document, offer document, advertisements and application forms, along with the price band or the issue price in identical font size.

### **Pricing**

**126.** (1) The issuer may determine the price of equity shares, and in case of convertible securities, the coupon rate and the conversion price, in consultation with the lead manager(s) or through the book building process, as the case may be.

(2) The issuer shall undertake the book building process in the manner specified in **Schedule XIII**.

### **Price and price band**

**127.** (1) The issuer may mention a price or a price band in the offer document (in case of a fixed price issue) and a floor price or a price band in the red herring prospectus (in case of a book built issue) and determine the price at a later date before registering the prospectus with the Registrar of Companies:

Provided that the prospectus registered with the Registrar of Companies shall contain only one price or the specific coupon rate, as the case may be.

(2) The cap on the price band, and the coupon rate in case of convertible debt instruments, shall be less than or equal to one hundred and twenty per cent. of the floor price.

(3) The floor price or the final price shall not be less than the face value of the specified securities.

(4) Where the issuer opts not to make the disclosure of the floor price or price band in the red herring prospectus, the issuer shall announce the floor price or the price band at least one working day before the opening of the bid in the same newspapers in which the pre-issue advertisement was released or together with the pre-issue advertisement in the format prescribed under Part A of **Schedule X**.

(5) The announcement referred to in sub-regulation (4) shall contain relevant financial ratios computed for both upper and lower end of the price band and also a statement drawing attention of the investors to the section title “basis of issue price” of the offer document.

(6) The announcement referred to in sub-regulation (4) and the relevant financial ratios referred to in sub-regulation (5) shall be disclosed on the websites of the stock exchange(s) and shall also be pre-filled in the application forms to be made available on the websites of the stock exchange(s).

### **Differential pricing**

**128.** (1) The issuer may offer its specified securities at different prices, subject to the following:

- a) retail individual investors or retail individual shareholders or employees entitled for reservation made under regulation 130 may be offered specified securities at a price not lower than by more than ten per cent. of the price at which net offer is made to other categories of applicants, excluding anchor investors;
  - b) in case of a book built issue, the price of the specified securities offered to the anchor investors shall not be lower than the price offered to other applicants;
  - c) in case of a composite issue, the price of the specified securities offered in the public issue may be different from the price offered in rights issue and justification for such price difference shall be given in the offer document.
  - d) in case the issuer opts for the alternate method of book building in terms of **Part D of Schedule XIII**, the issuer may offer the specified securities to its employees at a price not lower by more than ten per cent. of the floor price.
- (2) Discount, if any, shall be expressed in rupee terms in the offer document.

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

### **Allocation in the net offer**

**129.** (1) In an issue made through the book building process under sub-regulation (1) of regulation 103, the allocation in the net offer category shall be as follows:

- a) not less than thirty five per cent. to retail individual investors;
- b) not less than fifteen per cent. to non-institutional investors;
- c) not more than fifty per cent. to qualified institutional buyers, five per cent. of which shall be allocated to mutual funds:

Provided that the unsubscribed portion in either of the categories specified in clauses (a) or (b) may be allocated to applicants in any other category:

Provided further that in addition to five per cent. allocation available in terms of clause (c), mutual funds shall be eligible for allocation under the balance available for qualified institutional buyers.

(2) In an issue made through the book building process under sub-regulation (2) of regulation 103, the allocation in the net offer category shall be as follows:

- (a) not more than ten per cent. to retail individual investors;
- (b) not more than fifteen per cent. to non-institutional investors;
- (c) not less than seventy five per cent. to qualified institutional buyers, five per cent. of which shall be allocated to mutual funds:

Provided that the unsubscribed portion in either of the categories specified in clauses (a) or (b) may be allocated to applicants in the other category:

Provided further that in addition to five per cent. allocation available in terms of clause (c), mutual funds shall be eligible for allocation under the balance available for qualified institutional buyers.

(3) In an issue made through the book building process, the issuer may allocate up to sixty per cent. of the portion available for allocation to qualified institutional buyers to anchor investors in accordance with the conditions specified in this regard in **Schedule XIII**.

(4) In an issue made other than through the book building process, allocation in the net offer category shall be made as follows:

- (a) minimum fifty per cent. to retail individual investors; and
- (b) remaining to:
  - (i) individual applicants other than retail individual investors; and
  - (ii) other investors including corporate bodies or institutions, irrespective of the number of specified securities applied for;

Provided that the unsubscribed portion in either of the categories specified in clauses (a) or (b) may be allocated to applicants in the other category.

**Explanation:** For the purpose of sub-regulation (4), if the retail individual investor category is entitled to more than fifty per cent. of the issue size on a proportionate basis, the retail individual investors shall be allocated that higher percentage.

### **Reservation on a competitive basis**

**130.** (1) The issuer may make reservations on a competitive basis out of the issue size excluding promoters' contribution in favour of the following categories of persons:

- (a) employees;
- (b) shareholders (other than promoters and promoter group) of listed subsidiaries or listed promoter companies:

Provided that the issuer shall not make any reservation for the lead manager(s), registrar, syndicate member(s), their promoters, directors and employees and for the group or associate companies (as defined under the Companies Act, 2013) of the lead manager(s), registrar and syndicate member(s) and their promoters, directors and employees.

(2) In a further public offer, other than in a composite issue, the issuer may make a reservation on a competitive basis out of the issue size excluding promoters' contribution for the existing retail individual shareholders of the issuer.

(3) The reservations on competitive basis shall be subject to following conditions:

- (a) the aggregate of reservation for employees shall not exceed five per cent. of the post-issue capital of the issuer and 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.

- (b) reservation for shareholders shall not exceed ten per cent. of the issue size;
- (c) no further application for subscription in the net offer can be made by persons (except an employee and retail individual shareholder of the listed issuer and retail individual shareholders of listed subsidiaries of listed promoter companies) in favour of whom reservation on a competitive basis is made;
- (d) any unsubscribed portion in any reserved category may be added to any other reserved category/categories and the unsubscribed portion, if any, after such inter-se adjustments amongst the reserved categories shall be added to the net offer category;
- (e) in case of under-subscription in the net offer category, spill-over to the extent of under-subscription shall be permitted from the reserved category to the net public offer.

(4) An applicant in any reserved category may make an application for any number of specified securities, but not exceeding the reserved portion for that category.

### **Abridged prospectus**

**131.** (1) The abridged prospectus shall contain the disclosures as specified in **Part E of Schedule VI** and shall not contain any matter extraneous to the contents of the offer document.

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

### **ASBA**

**132.** The issuer shall accept bids using only the ASBA facility in the manner specified by the Board.

### **Availability of issue material**

**133.** The lead manager(s) shall ensure availability of the offer document and other issue material including application forms to stock exchanges, syndicate members, 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.

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

**134.** 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 initial public offer, except for fees or commission for services rendered in relation to the issue.

### **Security deposit**

**135.** (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 available for subscription to the public in the manner specified by the Board and/or the stock exchange(s).

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

### **Underwriting**

**136.** (1) If the issuer making a further public offer, other than through the book building process, desires to have the issue underwritten, it shall appoint the underwriters in accordance with the Securities and Exchange Board of India (Underwriters) Regulations, 1993.

(2) If the issuer makes a public issue through the book building process,

(a) the issue shall be underwritten by lead manager(s) and syndicate member(s):

Provided that at least seventy five per cent. of the net offer proposed to be compulsorily allotted to qualified institutional buyers for the purpose of compliance of the eligibility conditions specified in sub-regulation (2) of regulation 103, shall not be underwritten.

(b) the issuer shall, prior to filing the prospectus, enter into underwriting agreement with the lead manager(s), and syndicate member(s), indicating therein the number of specified securities which they shall subscribe to at the predetermined price in the event of under-subscription in the issue.

(c) if the syndicate member(s) fail to fulfil their underwriting obligations, the lead manager(s) shall fulfil the underwriting obligations.

(d) the lead manager(s) and syndicate member(s) shall not subscribe to the issue in any manner except for fulfilling their underwriting obligations.

(e) 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.

(f) where the issue is required to be underwritten, the underwriting obligations should at least be to the extent of minimum subscription.

### **Monitoring agency**

**137.** (1) If the issue size, excluding the size of offer for sale by selling shareholders, 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 offer document as the bankers 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**

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

### **Issue-related advertisements**

**139.** (1) Subject to the provisions of the Companies Act, 2013, the issuer shall, after registering the red herring prospectus (in case of a book built issue) or prospectus (in case of fixed price issue) with the Registrar of Companies, make a pre-issue advertisement in one English national daily newspaper with wide circulation, 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.

(2) The pre-issue advertisement shall be in the format and shall contain the disclosures specified in **Part A of Schedule X**.

Provided that the disclosures in relation to price band or floor price and financial ratios contained therein shall be applicable only where the issuer opts to announce the price band or floor price along with the pre-issue advertisement pursuant to sub-regulation (4) of regulation 127.

(3) The issuer may release advertisements for issue opening and issue closing, which shall be in the formats specified in **Parts B and C of Schedule X**.

(4) 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.

### **Opening of the issue**

**140.** (1) Subject to the compliance with the provisions of the Companies Act, 2013, a public issue may be opened within twelve months from the date of issuance of the observations by the Board under sub-regulation (4) of regulation 123; or

Provided that in case of a fast track issue, the issue shall open within the period specifically stipulated under the Companies Act, 2013.

(2) In case of shelf prospectus, the first issue may be opened within three months of issuance of observations by the Board.

(3) The issue shall be opened after at least three working days from the date of registering the red herring prospectus with the Registrar of Companies in case of book built issues and prospectus with the Registrar of Companies in case of fixed price issues.

### **Minimum subscription**

**141.** (1) The minimum subscription to be received in the issue shall be at least ninety per cent. of the offer through the offer document, except in case of an offer for sale of specified securities.

(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**

**142.** (1) Except as otherwise provided in these regulations, a further public issue shall be kept open for at least three working days and not more than ten working days.

(2) In case of a revision in the price band, the issuer shall extend the bidding (issue) period disclosed in the red herring prospectus, for a minimum period of three working days, subject to the provisions of sub-regulation (1).

(3) In case of force majeure, banking strike or similar circumstances, the issuer may, for reasons to be recorded in writing, extend the bidding (issue) period disclosed in the red herring prospectus (in case of a book built issue) or the issue period disclosed in the prospectus (in case of a fixed price issue), for a minimum period of three working days, subject to the provisions of sub-regulation (1).

#### **Application and minimum application value**

**143.** (1) A person shall not make an application in the net offer category for a number of specified securities that exceeds the total number of specified securities offered to public.

Provided that the maximum application by non-institutional investors shall not exceed total number of specified securities offered in the issue less total number of specified securities offered in the issue to qualified institutional buyers.

(2) The issuer shall stipulate in the offer document the minimum application size in terms of number of specified securities which shall fall within the range of minimum application value of ten thousand rupees to fifteen thousand rupees.

(3) The issuer shall invite applications in multiples of the minimum application value, an illustration whereof is given in **Part B of Schedule XIV**.

(4) The minimum sum payable on application per specified security shall be at least twenty five per cent. of the issue price:

Provided that in case of an offer for sale, the full issue price for each specified security shall be payable at the time of application.

**Explanation:** For the purpose of this regulation, “minimum application value” shall be with reference to the issue price of the specified securities and not with reference to the amount payable on application.

#### **Manner of calls**

**144.** 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 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 137.

#### **Allotment procedure and basis of allotment**

**145.** (1) The issuer shall not make an allotment pursuant to a public issue if the number of prospective allottees is less than one thousand.

(2) The issuer shall not make any allotment in excess of the specified securities offered through the offer document except in case of oversubscription for the purpose of rounding off to make allotment, in consultation with the designated stock exchange.

Provided that in case of oversubscription, an allotment of not more than one per cent. of the net offer to public may be made for the purpose of making allotment in minimum lots.

(3) The allotment of specified securities to applicants other than retail individual investors and anchor investors shall be on proportionate basis within the specified investor categories and the number of securities allotted shall be rounded off to the nearest integer, subject to minimum allotment being equal to the minimum application size as determined and disclosed by the issuer:

Provided that value of specified securities allotted to any person, except in case of employees, in pursuance of reservation made under clause (a) of sub-regulation (1) or clause (a) of sub-regulation (2) of regulation 130, shall not exceed two lakhs rupees.

(4) The allotment of specified securities 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.

(5) 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 in accordance with the allotment procedure as specified in **Part A of Schedule XIV**.

#### **Allotment, refund and payment of interest**

**146.** (1) The issuer and lead manager(s) shall ensure that 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 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 investors and within such time as disclosed in the offer document and the lead manager(s) shall ensure the same.

#### **Post-issue Advertisements**

**147.** (1) The lead manager(s) shall ensure that 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 credit of specified securities 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.

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

**148.** (1) The responsibility of the lead manager(s) shall continue until completion of 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 syndicate member(s) or 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, credit of the specified securities to the demat accounts of the allottees 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 a period of 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**

**149.** (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 monies are not repaid within the specified period, 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 issue are released to the issuer in compliance with the provisions of the Section 40 (3) of the Companies Act, 2013, as applicable.

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

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

### **Post- issue reports**

**151.** The lead manager(s) shall submit a final post-issue report as specified in **Part A of Schedule XVII**, along with a due diligence certificate as per the format specified in **Form F of Schedule V**, within seven days of the date of finalization of basis of allotment or within seven days of refund of money in case of failure of issue.

## **PART IX: MISCELLANEOUS**

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

**152.** 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 registering the offer document (in case of a book built issue) or prospectus (in case of a fixed price issue) with the Registrar of Companies and the listing of the specified securities offered through the offer document or refund of application monies; or
- b) in case of other issues, during the period between the date of filing the draft offer document and the listing of the specified securities offered through the offer document 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 offer document or offer document, as the case may be.

### **Price stabilisation through green shoe option**

**153.** (1) An issuer may provide green shoe option for stabilising the post listing price of its specified securities, subject to the following:

- a) the issuer has been authorized, by a resolution passed in the general meeting of shareholders approving the public issue, to allot specified securities to the stabilising agent, if required, on the expiry of the stabilisation period;

- b) the issuer has appointed a lead manager as a stabilising agent, who shall be responsible for the price stabilisation process;
  - c) prior to filing the draft offer document, the issuer and the stabilising agent have entered into an agreement, stating all the terms and conditions relating to the green shoe option including fees charged and expenses to be incurred by the stabilising agent for discharging its responsibilities;
  - d) prior to filing the offer document, the stabilising agent has entered into an agreement with the promoters or pre-issue shareholders or both for borrowing specified securities from them in accordance with clause (g) of this sub-regulation, specifying therein the maximum number of specified securities that may be borrowed for the purpose of allotment or allocation of specified securities in excess of the issue size (hereinafter referred to as the “over- allotment”), which shall not be in excess of fifteen per cent. of the issue size;
  - e) subject to clause (d), the lead manager, in consultation with the stabilising agent, shall determine the amount of specified securities to be over-allotted in the public issue;
  - f) the draft offer document and offer document shall contain all material disclosures about the green shoe option specified in this regard in **Part A of Schedule VI**;
  - g) in case of an initial public offer pre-issue shareholders and promoters and in case of a further public offer pre-issue shareholders holding more than five per cent. specified securities and promoters, may lend specified securities to the extent of the proposed over-allotment;
  - h) the specified securities borrowed shall be in dematerialised form and allocation of these securities shall be made pro-rata to all successful applicants.
- (2) For the purpose of stabilisation of post-listing price of the specified securities, the stabilising agent shall determine the relevant aspects including the timing of buying such securities, quantity to be bought and the price at which such securities are to be bought from the market.
- (3) The stabilisation process shall be available for a period not exceeding thirty days from the date on which trading permission is given by the stock exchanges in respect of the specified securities allotted in the public issue.
- (4) The stabilising agent shall open a special account, distinct from the issue account, with a bank for crediting the monies received from the applicants against the over-allotment and a special account with a depository participant for crediting specified securities to be bought from the market during the stabilisation period out of the monies credited in the special bank account.
- (5) The specified securities bought from the market and credited in the special account with the depository participant shall be returned to the promoters or pre-issue shareholders immediately, in any case not later than two working days after the end of the stabilization period.
- (6) On expiry of the stabilisation period, if the stabilising agent has not been able to buy specified securities from the market to the extent of such securities over-allotted, the issuer shall allot specified securities at issue price in dematerialised form to the extent of the shortfall to the special account with the depository participant, within five days of the closure of the stabilisation period and such specified securities shall be returned to the promoters or pre-issue shareholders by the stabilising agent in lieu of the specified securities borrowed from them and the account with the depository participant shall be closed thereafter.
- (7) The issuer shall make a listing application in respect of the further specified securities allotted under sub-regulation (6), to all the stock exchanges where the specified securities allotted in the public issue are listed and the provisions of Chapter VII shall not be applicable to such allotment.
- (8) The stabilising agent shall remit the monies with respect to the specified securities allotted under sub-regulation (6) to the issuer from the special bank account.
- (9) Any monies left in the special bank account after remittance of monies to the issuer under sub-regulation (8) and deduction of expenses incurred by the stabilising agent for the stabilisation process shall be transferred to the Investor Protection and Education Fund established by the Board and the special bank account shall be closed soon thereafter.
- (10) The stabilising agent shall submit a report to the stock exchange on a daily basis during the stabilisation period and a final report to the Board in the format specified in **Schedule XV**.

- (11) The stabilising agent shall maintain a register for a period of at least three years from the date of the end of the stabilisation period and such register shall contain the following particulars:
- a) The names of the promoters or pre-issue shareholders from whom the specified securities were borrowed and the number of specified securities borrowed from each of them;
  - b) The price, date and time in respect of each transaction effected in the course of the stabilisation process; and
  - c) The details of allotment made by the issuer on expiry of the stabilisation process.

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

**154.** An issuer shall not alter the terms, including the terms of issue, of specified securities which may adversely affect the interests of the holders of that 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 X: FAST TRACK FURTHER PUBLIC OFFER**

#### **Eligibility conditions**

**155.** Sub-regulations (1), (2), (3), (4) and (5) and (9) of regulation 123 shall not apply if the issuer satisfies the following conditions for making a further public offer through the fast track route:

- a) 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) entire shareholding of the promoter group of the issuer is held in dematerialised form on the reference date
- c) average market capitalisation of public shareholding of the issuer is at least one thousand crore rupees in case of public issue;  
“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.  
“public shareholding” shall have the same meaning as assigned to it under the Securities Contracts (Regulation) Rules, 1957.
- d) 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) 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 annualised trading turnover of the equity shares during such six months’ period;
- f) 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) 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) 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) 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) 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) impact of audit qualifications, if any and where quantifiable, on the audited accounts of the issuer in respect of those financial years for which such accounts are disclosed in the letter of offer does not exceed five per cent. of the net profit or loss after tax of the issuer for the respective years.

#### **Submission of offer document and due diligence certificate**

**156.** (1) The issuer shall file the offer document with the Board and the stock exchanges in accordance with sub-regulations (7) and (8) of regulation 123 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 offer document:

- 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**.

**Explanation:** For the purposes of this regulation: “reference date” means the date of registering the red herring prospectus (in case of a book built issue) or prospectus (in case of a fixed price issue) with the Registrar of Companies.

#### **Post-listing exit opportunity for dissenting shareholders**

**157.** In case of further public offers, including under the fast track route, the promoters or shareholders in control of an issuer shall provide an exit offer to dissenting shareholders as provided for in the Companies Act, 2013, in case of change in objects or variation in the terms of contract related to objects referred to in the offer document as per conditions and manner is provided in **Schedule XX**;

Provided that the exit offer shall not apply where there are neither identifiable promoters nor shareholders in control of the listed issuer.