

## CHAPTER VI – QUALIFIED INSTITUTIONS PLACEMENT

### Definitions

171. For the purpose of this Chapter:

- a) “eligible securities” include equity shares, non-convertible debt instruments along with warrants and convertible securities other than warrants;
- a) "relevant date" means:
  - (i) in case of allotment of equity shares, the date of the meeting in which the board of directors of the issuer or the committee of directors duly authorised by the board of directors of the issuer decides to open the proposed issue;
  - (ii) in case of allotment of eligible convertible securities, either the date of the meeting in which the board of directors of the issuer or the committee of directors duly authorised by the board of directors of the issuer decides to open the issue of such convertible securities or the date on which the holders of such convertible securities become entitled to apply for the equity shares.

### PART I: CONDITIONS FOR QUALIFIED INSTITUTIONS PLACEMENT

#### Eligibility conditions

172. (1) A listed issuer may make a qualified institutions placement of eligible securities if it satisfies the following conditions:

- a) a special resolution approving the qualified institutions placement has been passed by its shareholders, and the special resolution shall, among other relevant matters, specify that the allotment is proposed to be made through qualified institutions placement and the relevant date referred to in sub-clause (ii) of clause (b) of regulation 171;  
Provided that no shareholders’ resolution will be required in case the qualified institutions placement is through an offer for sale by promoters or promoter group for compliance with minimum public shareholding requirements specified in the Securities Contracts (Regulation) Rules, 1957;  
Provided further that allotment pursuant to the special resolution referred to in this clause (a) of regulation 172 shall be completed within a period of 365 days from the date of passing of the resolution.
- b) the equity shares of the same class, which are proposed to be allotted through qualified institutions placement or pursuant to conversion or exchange of eligible securities offered through qualified institutions placement, have been listed on a stock exchange for a period of at least one year prior to the date of issuance of notice to its shareholders for convening the meeting to pass the special resolution:  
Provided that where an issuer, being a transferee company in a scheme of compromise, arrangement and amalgamation sanctioned by a High Court under sections 391-394 of the Companies Act, 1956 or approved by a tribunal or the Central Government under sections 230 to 234 of the Companies Act, 2013, whichever is applicable makes qualified institutions placement, the period for which the equity shares of the same class of the transferor company were listed on a stock exchange having nation-wide trading terminals shall also be considered for the purpose of computation of the period of one year.  
Provided further that this clause shall not be applicable to an issuer proposing to undertake qualified institutional placement for complying with the minimum public shareholding requirements specified in the Securities Contracts (Regulation) 1957.

**Explanation:** For the purpose of clause (b), “equity shares of the same class” shall mean equity shares which rank pari-passu in relation to rights as to dividend, voting or otherwise.

- c) An issuer shall be eligible to make a qualified institutions placement if any of its promoters or directors is not a fugitive economic offender.
- (2) All eligible securities issued through a qualified institutions placement shall be listed on the recognised stock exchange where the equity shares of the issuer are listed. Provided that the issuer shall seek approval under rule 19(7) of the Securities Contracts (Regulation) Rules, 1957, if applicable.
- (3) The issuer shall not make any subsequent qualified institutions placement until the expiry of six months from the date of the prior qualified institutions placement made pursuant to one or more special resolutions.

**Conditions for offer for sale by promoters for compliance with minimum public shareholding requirements specified in the Securities Contracts (Regulation) Rules, 1957.**

**173.** The promoters and members of the promoter group may make an offer for sale of fully paid up equity shares, through a qualified institutions placement, for the purpose of achieving minimum public shareholding in terms of the Securities Contracts (Regulation) Rules, 1957.

Provided that the promoters or members of the promoter group shall not make such offer for sale if the promoter or member of the promoter group has purchased or sold any equity shares of the issuer during twelve weeks period prior to the date of the opening of the issue and they shall not purchase or sell any equity shares of the issuer during the twelve weeks period after the date of closure of the issue:

Provided further that such promoters or members of the promoter group may, within the twelve week periods provided above, sell equity shares of the issuer held by them through offer for sale through stock exchange mechanism specified by the Board or through an open market sale, in accordance with the conditions specified by the Board from time to time, subject to the condition that there shall be a gap of minimum two weeks between the two successive offer(s).

**PART II: APPOINTMENT OF LEAD MANAGERS**

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

(2) 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.

(3) The lead manager(s) shall, while seeking in-principle listing approval for the eligible securities, furnish to each stock exchange on which the same class of equity shares of the issuer are listed, a due diligence certificate stating that the eligible securities are being issued under qualified institutions placement and that the issuer complies with requirements of this Chapter, and also furnish a copy of the preliminary placement document along with any other document required by the stock exchange.

**PART III: PLACEMENT DOCUMENT**

**175.** (1) The lead manager(s) shall exercise due diligence and shall satisfy themselves with all aspects of the Issue including the veracity and adequacy of disclosures in the offer document.

(2) The qualified institutions placement shall be made on the basis of a placement document which shall contain all material information, including those specified in the Companies Act, 2013, if any, and disclosures as specified in **Schedule VII** shall be made, including as specified therein if the issuer or any of its promoters or directors is a wilful defaulter.

(3) The preliminary placement document and the placement document shall be serially numbered and copies the same shall be circulated only to select investors.

(4) The preliminary placement document and the placement document shall be placed on the websites of the relevant stock exchange(s) and of the issuer with a disclaimer to the effect that it is in connection with a qualified institutions placement and that no offer is being made to the public or to any other category of investors.

#### **PART IV: PRICING**

**176.** (1) The qualified institutions placement shall be made at a price not less than the average of the weekly high and low of the closing prices of the equity shares of the same class quoted on the stock exchange during the two weeks preceding the relevant date:

Provided that the issuer may offer a discount of not more than five per cent. on the price so calculated, subject to approval of shareholders as specified in clause (a) of regulation 172 of these regulations, except that no shareholders' approval will be required in case of a qualified institutions placement made through an offer for sale by promoters for compliance with minimum public shareholding requirements specified in the Securities Contracts (Regulation) Rules, 1957.

(2) Where eligible securities are convertible into or exchangeable with equity shares of the issuer, the issuer shall determine the price of such equity shares allotted pursuant to such conversion or exchange taking the relevant date as disclosed in the special resolution referred to in clause (a) of sub regulation (1) of regulation 172.

(3) The issuer shall not issue or allot partly paid-up eligible securities:

Provided that in case of allotment of non-convertible debt instruments along with warrants, the allottees may pay the full consideration or part thereof payable with respect to warrants, at the time of allotment of such warrants:

Provided further that on allotment of equity shares on exercise of options attached to warrants, such equity shares shall be fully paid-up.

(4) The issue price shall be subject to appropriate adjustments, if the issuer:

- a) makes an issue of equity shares by way of capitalization of profits or reserves, other than by way of a dividend on shares;
- b) makes a rights issue of equity shares;
- c) consolidates its outstanding equity shares into a smaller number of shares;
- d) divides its outstanding equity shares including by way of stock split;
- e) re-classifies any of its equity shares into other securities of the issuer;
- f) is involved in such other similar events or circumstances, which in the opinion of the concerned stock exchange, requires adjustments.

**Explanation:** For the purpose of sub-regulation (1), the term "stock exchange" means any of the recognised stock exchanges in which the equity shares of the same class of the issuer are listed and in which the highest trading volume in such equity shares has been recorded during the two weeks immediately preceding the relevant date.

#### **PART V: TENURE OF CONVERTIBLE SECURITIES**

**177.** The tenure of the convertible or exchangeable eligible securities issued through qualified institutions placement shall not exceed sixty months from the date of allotment.

#### **PART VI: TRANSFERABILITY**

**178.** The eligible securities allotted under the qualified institutions placement shall not be sold by the allottee for a period of one year from the date of allotment, except on a recognised stock exchange.

## **PART VII: APPLICATION AND ALLOTMENT**

**179.** (1) The applicants in qualified institutions placement shall not withdraw or revise downwards their bids after the closure of the issue.

(2) Allotment of specified securities shall be made subject to the following conditions:

- a) minimum of ten per cent. of eligible securities shall be allotted to mutual funds:  
Provided that any unsubscribed portion of the said minimum percentage or any part thereof may be allotted to other qualified institutional buyers;
- b) no allotment shall be made, either directly or indirectly, to any qualified institutional buyer who is a promoter or any person related to the promoters of the issuer:  
Provided that a qualified institutional buyer who does not hold any shares in the issuer and who has acquired the said rights in the capacity of a lender shall not be deemed to be a person related to the promoters.

Explanation: For the purpose of this clause, a qualified institutional buyer who has any of the following rights shall be deemed to be a person related to the promoters of the issuer:-

- (a) rights under a shareholders' agreement or voting agreement entered into with promoters or promoter group;
- (b) veto rights; or
- (c) right to appoint any nominee director on the board of the issuer.

(3) In a qualified institutions placement of non-convertible debt instrument along with warrants, an investor can subscribe to the combined offering of non-convertible debt instruments with warrants or to the individual securities, that is, either non- convertible debt instruments or warrants.

### **Minimum number of allottees**

**180.** (1) The minimum number of allottees for each placement of eligible securities made under this Chapter shall at least be:

- a) two, where the issue size is less than or equal to two hundred and fifty crore rupees;
- b) five, where the issue size is greater than two hundred and fifty crore rupees:

Provided that no single allottee shall be allotted more than fifty per cent. of the issue size.

(2) Qualified institutional buyers belonging to the same group or who are under same control shall be deemed to be a single allottee.

**Explanation:** For the purpose of sub-regulation (2), the expression "qualified institutional buyers belonging to the same group" shall mean entities where, - (i) any of them controls directly or indirectly, through its subsidiary or holding company, not less than fifteen per cent. of the voting rights in the other; or (ii) any of them directly or indirectly, by itself, or in combination with other persons exercise control over the others; or (iii) there is a common director, excluding nominee and independent directors amongst the investor, its subsidiary or holding company and any other investor.