

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.

CHAPTER VII - INITIAL PUBLIC OFFER OF INDIAN DEPOSITORY RECEIPTS

APPLICABILITY

181. The provisions of this Chapter shall apply to an issue of Indian Depository Receipts (hereinafter referred to as "IDR") made in terms of the Companies Act, 2013 and Companies (Registration of Foreign Companies) Rules, 2014.

PART I: ELIGIBILITY REQUIREMENTS

Reference date

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

Eligibility conditions

183. (1) An issuer shall be eligible to make an issue of IDRs only if:

- a) the issuing company is listed in its home country for at least three immediately preceding years;
- b) the issuer is not prohibited to issue securities by any regulatory body;
- c) the issuer has a track record of compliance with the securities market regulations in its home country;
- d) any of its promoters or directors is not a fugitive economic offender.

Explanation: For the purpose of this regulation, the term “home country” means the country where the issuer is incorporated and listed.

(2) The issue shall be subject to the following conditions:

- a) issue size shall not be less than fifty crore rupees;
- b) at any given time, there shall be only one denomination of IDRs of the issuer.
- c) issuer shall ensure that the underlying equity shares against which IDRs are issued have been or will be listed in its home country before listing of IDRs in stock exchange(s).
- d) issuer shall ensure that the underlying shares of IDRs shall rank *pari passu* with the existing shares of the same class.

(3) The issuer shall ensure that:

- a) it has made an application to one or more stock exchanges to seek an in-principle approval for listing of the IDRs 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 the IDRs proposed to be issued;
- c) it has made firm arrangements of finance through verifiable means towards seventy five per cent. of the stated means of finance for the project proposed to be funded from issue proceeds, excluding the amount to be raised through the proposed issue of IDRs or through existing identifiable internal accruals, have been made.

- (4) 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.

PART II: APPOINTMENT OF LEAD MANAGERS, OTHER INTERMEDIARIES AND COMPLIANCE OFFICER.

184. (1) The issuer shall appoint one or more merchant bankers, which are registered with the Board, as lead manager(s) to the issue and shall also appoint other intermediaries, in consultation with the lead manager and shall enter into an agreement with the lead manager on the lines of format of agreement as specified in **Schedule II**.

(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 documents 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(s) 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 appoint a registrar to the issue, registered with the Board, which has connectivity with all the depositories.

(5) The issuer shall enter into an agreement with an overseas custodian bank and a domestic depository.

(6) The issuing company shall make arrangements for collection at centres as specified in **Schedule XII**.

(7) 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 IV: DISCLOSURES IN AND FILING OF OFFER DOCUMENTS

Disclosures in the draft offer document and offer document

185. (1) The offer document shall contain all material disclosures which are true, correct and adequate to enable the applicants to take an informed investment decision.

(2) Without prejudice to the generality of sub-regulation (1), the offer document shall contain:

(a) disclosures specified in the Companies (Registration of Foreign Companies) Rules, 2014; and

(b) disclosures in the manner as specified in **Part A of Schedule VIII**.

(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 offer document and the offer documents.

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

Filing of the draft offer document and offer document

186. (1) Prior to making an initial public offer, the issuer shall file three copies of the draft offer document with the Board, in accordance with **Schedule IV**, along with fees as specified in **Schedule III**, through the lead manager(s).

(2) The draft offer document and the offer documents filed with the Board shall also be furnished to the Board in a soft copy.

(3) The lead manager(s) shall:

a) submit a certificate confirming that an agreement has been entered into between the issuer and the lead manager(s)

b) submit a due diligence certificate as per format given in **Part H of Schedule V** to the Board along with the draft offer document;

c) certify that all amendments, suggestions or observations made by the Board have been incorporated in the offer document;

d) submit a due diligence certificate as per format given in **Part C of Schedule V**, at the time of filing the offer document with the Registrar of the Companies.

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.

(4) The issuer shall, before filing the offer document with the Registrar of Companies, file with the Board through the lead manager(s), an updated draft offer document highlighting all changes made in the draft offer document.

(5) If there are any changes in the draft offer document in relation to the matters specified in **Schedule XVI**, an 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**.

(6) Copy of the offer documents shall also be filed with the Board and the stock exchange(s) through the lead manager(s) promptly after registering the offer documents with the registrar of companies.

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

187. (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 of the draft offer document with the Board, make a public announcement in one English national daily newspaper with wide circulation and one Hindi national daily newspaper with wide circulation, 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, Board and the stock exchanges, as applicable.

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

PART V - PRICING

Pricing

188. (1) The issuer may determine the price of the IDRs 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 a manner specified in **Schedule XIII**.

Price and price band

189. (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 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 IDRs.

(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 two working days before the opening of the issue 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 titled "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

190. (1) The issuer may offer its IDRs at different prices, subject to the following:

- a) retail individual investors or employees entitled for reservation may be offered specified securities at a price not lower by more than ten per cent. of the price at which net offer is made to other categories of applicants, excluding anchor investors.

Explanation: For the purpose of this Chapter, “employee” shall mean a person who:

- i) is a resident of India, and
 - ii) is a permanent and full-time employee or a director, whether whole time or part time, of the issuer or of the holding company or subsidiary company or of the material associate(s) of the issuer, whose financial statements are consolidated with the issuer’s financial statements, working in India and does not include promoters and an immediate relative of the promoter.
- b) In case the issuer opts for the alternate method of book building in terms of Part D of **Schedule XIII**, the issuer may offer 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 VI: ISSUANCE CONDITIONS AND PROCEDURE

Issuance conditions

191. (1) The procedure to be followed by each class of applicant shall be mentioned in the offer document.

(2) The minimum application amount shall be twenty thousand rupees.

Allocation in the issue

192. (1) The allocation in the issue shall be as follows:

- (a) at least fifty per cent. of the issue shall be allotted to qualified institutional buyers on proportionate basis as per illustration given in **Part A of Schedule XIV**;
- (b) the remaining portion of the issue may be allocated among the categories of non-institutional investors and retail individual investors including employees, at the discretion of the issuer and the manner of allocation shall be disclosed in the offer document. Allotment to investors within a category shall be on proportionate basis:

Provided that at least thirty per cent. of the IDRs being offered in the public issue shall be available for allocation to retail individual investors and in case of under-subscription in retail individual investor category, spill over to other categories to the extent of under subscription may be permitted.

(2) A person shall not make an application in the net offer category for a number of IDRs which exceeds the total number of IDRs offered to the public.

Abridged prospectus

193. (1) The abridged prospectus shall contain the disclosures as specified in **Part B of Schedule VIII** 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

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

Availability of issue material

195. 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

196. 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

197. (1) The issuer shall, before the opening of 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 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

198. (1) If the issuer making an initial public offer of IDRs, other than through the book building process, desires to have the issue underwritten, it shall appoint 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):
- 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 such underwriting obligations.
- d) The lead manager(s) and the 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 to the extent of minimum subscription.

Public communications, publicity materials, advertisements and research reports.

199. All public communication, publicity materials, advertisements and research reports shall comply with the provisions of **Schedule IX**, subject to the following:

- a) the applicability of clauses (1) and (7) and Explanation II shall be restricted to any issue advertisements made in India or any research report circulated in India, pertaining to the IDR issue of the issuing company;
- b) the applicability of clauses (2) and (3) shall be restricted to any public communications and publicity material issued or published in any media in India;

- c) the applicability of clauses (4) and (5) shall be restricted to any material or information released in India and any issue advertisements and publicity materials issued or published in any media in India;
- d) the applicability of clause (10) shall be restricted to any product advertisement of the issuer issued or published in any media in India;
- e) all other provisions of **Schedule IX** shall be applicable.

Issue-related advertisements

200. (1) 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**.

(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 the issue shall be made only after the lead manager(s) is satisfied that at least ninety per cent. of the issue 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

201. (1) Subject to the compliance with the provisions of the Companies Act, 2013, a public issue may be opened:

a) within twelve months from the date of issuance of the observations by the Board under regulation 6; or

(2) an issue shall be opened after at least three working days from the date of registering the prospectus with the Registrar of Companies.

Minimum subscription

202. (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) For non-underwritten issues:

a) If the issuer does not receive the minimum subscription of ninety per cent. of the offer through offer document on the date of closure of the issue, or if the subscription level falls below ninety per cent. after the closure of issue, the issuer shall forthwith refund through verifiable means the entire subscription amount received.

b) If the issuer fails to refund the entire subscription amount within fifteen days from the date of the closure of the issue, it is liable to pay the amount with interest to the subscribers at the rate of fifteen per cent. per annum for the period of delay.

(3) For underwritten issues:

(a) If the issuer does not receive the minimum subscription of ninety per cent. of the offer through offer document including devolvement of underwriters, all application monies received shall be refunded through verifiable means to the applicants forthwith, but not later than fifteen days from the closure of the issue.

(b) If the issuer fails to refund the entire subscription amount within fifteen days from the date of the closure of the issue, it is liable to pay the amount with interest to the subscribers at the rate of fifteen per cent. per annum for the period of delay.

(4) In case of an undersubscribed issue that is underwritten, the lead manager(s) shall furnish information to the Board in respect of underwriters who have failed to meet their underwriting devolvement in the format specified in **Schedule XVIII**.

Period of subscription

203. (1) Except as otherwise provided in these regulations, an initial public offer of IDRs 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).

Allotment procedure and basis of allotment

204. (1) 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.

(2) The allotment of specified securities to applicants other than retail individual investors shall be on proportionate basis within the respective 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 in the offer document:

Provided that value of specified securities allotted to retail individual investors shall not exceed two lakhs rupees.

(3) 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.

(4) 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

205. (1) The issuer shall ensure that the letters of allotment for the IDRs are issued simultaneously to all allottees and that in the event of it being impossible to issue letters of regret at the same time, a notice to that effect shall be issued in the media so that it appears on the morning after the letters of allotment have been despatched.

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

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

(4) 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 investors and within such time as disclosed in the offer document and the lead manager(s) shall ensure the same.

Post-issue advertisements

206. (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 the IDRs 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.

(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)

207. (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 credit of IDRs to their 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 devolvement on the underwriters, the lead manager(s) shall ensure that the notice for devolvement 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 devolvement in the format specified in **Schedule XVIII**.

Release of subscription money

208. (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 IDRs, 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 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

209. (1) The issuer shall ensure that transactions in securities by the promoters and promoter group during the period 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 exchange(s) within twenty four hours of such transactions.

Post-issue reports

210. The lead manager(s) shall submit a final post-issue report on the lines of **Parts 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 finalisation of basis of allotment or within seven days of refund of money in case of failure of issue.

Fungibility

211. The IDRs shall be fungible into the underlying equity shares of the issuer in the manner specified by the Board and Reserve Bank of India, from time to time.