

## **CHAPTER VIII - RIGHTS ISSUE OF INDIAN DEPOSITORY RECEIPTS**

### **Applicability**

**212.** In addition to compliance with Chapter VII, wherever applicable, a listed issuer offering IDRs through a rights issue shall satisfy the conditions specified in this Chapter at the time of filing the offer document:

Provided that the provisions of the following regulations shall not be applicable in case of rights issue of IDRs:

- a) regulation 191
- b) sub-regulation (1) of regulation 192
- c) clause (a) of sub regulation (2) of regulation 183
- d) regulation 205; and
- e) sub-regulation (2) of regulation 185.

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

**213.** An issuer shall not be eligible to make a rights issue of IDRs if –

- (a) at the time of undertaking the rights issue, the issuer is in breach of ongoing material obligations under the listing agreement and the Securities and Exchange Board of India (Listing Obligations and Disclosure Requirements) Regulations, 2015 as may be applicable to such issuer or material obligations under the deposit agreement entered into between the domestic depository and the issuer at the time of initial offering of IDRs;
- (b) any of its promoters or directors is a fugitive economic offender.

### **General conditions**

**214.** The issuer shall ensure that it has made an application to all the stock exchanges in India, where its IDRs are already listed, for listing of the IDRs to be issued by way of rights and has chosen one of them as the designated stock exchange, in terms of **Schedule XIX**.

### **Renunciation by an IDR holder**

**215.** Unless the laws of the home jurisdiction of the issuer otherwise provide, the rights issue shall be deemed to include a right exercisable by the person concerned to renounce the IDRs offered to the IDR holder in favour of any other person subject to applicable laws and the same shall be disclosed in the offer document.

### **Depository**

**216.** The domestic depository shall, in accordance with the depository agreement executed with the issuer at the time of initial offering of IDR, take such steps as are necessary to enable the IDR holders to have entitlements under the rights offering and issue additional IDRs to such IDR holders, distribute the rights to the IDR holders or renounees or arrange for the IDR holders or

renouncees to subscribe for any additional rights which are available due to lack of take-up by other holders of underlying shares.

#### **Record date**

**217.** (1) An issuer making a rights issue of IDRs shall, in accordance with the provisions of the Securities and Exchange Board of India (Listing Obligations and Disclosure Requirements) Regulations, 2015, the issuer shall announce a record date for the purpose of determining the shareholders eligible to apply for IDRs in the proposed rights issue.

(2) If the issuer withdraws the rights issue after announcing the record date, it shall notify the Board about the same and shall notify the same in 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 principal office of the issuer is situated in India. If the issuer withdraws the rights issue after announcing the record date, it shall not make an application for offering of IDRs on a rights basis for a period of twelve months from the said record date.

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

**218.** (1) The offer document for the rights offering shall contain disclosures as required under the home country regulations of the issuer.

(2) An additional wrap (addendum to offer document) shall be attached to the offer document to be circulated in India containing information as specified in **Part C of Schedule VIII** and other instructions as to the procedures and process to be followed with respect to rights issue of IDRs in India.

(3) Without prejudice to the generality of sub-regulations (1) and (2), the offer document and the addendum attached with it, shall contain all material information, which are true, correct and adequate, so as to enable the applicants to take an informed investment decision.

#### **Appointment of lead managers and compliance officer**

**219.** (1) The issuer shall appoint one or more merchant bankers, which are registered with the Board, as a lead manager(s) to the issue and shall also appoint other intermediaries, in consultation with the lead manager, to carry out the obligations relating to the issue.

(2) The issuer shall ensure that the compliance officer, in charge of ensuring compliance with the obligations under this Chapter, functions from within the territorial limits of India.

#### **Filing of draft offer document and the addendum for rights offering**

**220.** (1) The issuer shall, through the lead manager(s), file the draft offer document prepared in accordance with the home country requirements along with an addendum containing disclosures as specified in **Part C of Schedule VIII** with the Board, as a confidential filing accompanied with fees as specified in **Schedule III**.

(2) The Board may specify changes or issue observations on the draft offer document and the addendum within thirty days from the later of the following dates :

- (a) the date of receipt of the draft offer document prepared in accordance with the home country requirements along with an addendum under sub-regulation (2); or
- (b) the date of receipt of satisfactory reply from the lead manager(s), where the Board has sought any clarification or additional information from them; or
- (c) the date of receipt of clarification or information from any regulator or agency, where the Board has sought any clarification or information from such regulator or agency; or
- (d) the date of receipt of a copy of in-principle approval letter issued by the stock exchanges.

(3) If the Board specifies any changes or issues observations on the draft offer document and the addendum under sub-regulation (3), the issuer and the lead manager(s) shall file the revised draft

offer document and the updated addendum after incorporating the changes specified by the Board.

(4) The issuer shall also submit an undertaking from the overseas custodian and domestic depository addressed to the issuer, to comply with their obligations with respect to the said rights issue under their respective agreements entered into between them, along with the offer document.

### **Pricing**

**221.** The issue price and the ratio shall be decided simultaneously with record date in accordance with the home country regulations.

### **Availability of Issue Material**

**222.** (1) The abridged letter of offer, containing disclosures as specified in Part B of **Schedule IX**, for a rights offering, along with application form, shall be dispatched through registered post or speed post or by courier service or by electronic mode to all the eligible IDR holders at least three days before the date of opening of the issue and shall be made available on the website of the issuer with appropriate access restrictions at the same time it is made available to the holders of its equity shares.

Provided that a hard copy of the offer document for a rights offering along with the addendum shall be made available at the principal office of the issuer or lead manager to any existing IDR holder who has made a request in this regard.

(2) The eligible IDR holders who have not received the application form may apply in writing on a plain paper to the domestic depository, along with the requisite application money within the time frame for acceptance.

(3) The eligible IDR holders making an application otherwise than on the application form shall not renounce their rights and shall not utilise the application form for any purpose including renunciation even if it is received subsequently.

(4) Where any eligible IDR holder makes an application on an application form as well as on plain paper, such application is liable to be rejected.

### **Issue-related advertisement**

**223.** (1) The issuer shall issue an advertisement for the rights issue disclosing the following:

- a) the date of completion of despatch of the abridged letter of offer and the application form;
- b) the centres other than principal office of the issuer in India where the eligible IDR holders may obtain duplicate copies of the application forms in case they do not receive the application form within a reasonable time after opening of the rights issue;
- c) a statement that if the eligible IDR holders have neither received the original application forms nor they are in a position to obtain the duplicate forms, they may make application in writing on a plain paper to subscribe to the rights issue;
- d) a format to enable the eligible IDR holders, to make the application on a plain paper specifying therein necessary particulars such as name, address, ratio of rights issue, issue price, number of IDRs held, ledger folio numbers, depository participant ID, client ID, number of IDRs entitled and applied for, amount to be paid along with application, and particulars of cheque, etc. to be drawn in favour of the issuer's account;
- e) a statement that the applications can be directly sent by the eligible IDR holders through registered post together with the application monies to the issuer's designated official at the address given in the advertisement;
- f) a statement to the effect that if the eligible IDR holder makes an application on plain paper and also on application form both the applications shall be liable to be rejected at the option of the issuer.

(2) The advertisement shall be made 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 principal office of the issuer is situated in India at least three days before the date of opening of the issue.

#### **Period of subscription and issue of allotment letter**

**224.** (1) A rights issue shall be open for subscription in India for a period as applicable under the laws of its home country but in no case less than ten days.

(2) The issuing company shall ensure that it sends the allotment letter of rights to IDR holders at the time these are sent to shareholders of the issuing company as per the requirement of its home country or other jurisdictions where its securities are listed.

#### **Utilisation of funds**

**225.** The issuer shall utilise funds raised in relation to the IDRs pursuant to the rights offering only upon completion of the allotment process.

#### **Fast track issue**

**226.** (1) Nothing contained in sub-regulations (1) of regulation 221, (1), (2) and (3) of regulation 222 shall apply, if the issuer satisfies the following conditions:

- a) the issuer is in compliance in all material respects with the provisions of deposit agreement and the provisions of listing agreements (or listing conditions) applicable in all the jurisdictions wherever the issuer is listed, for a period of at least three years immediately preceding the date of filing of the offer document, and a certification to this effect is provided by the issuer;
- b) the offer document for the rights offering of the securities of the issuer has been filed and reviewed by the securities regulator in the home country of the issuer;
- c) there are no pending show-cause notices or prosecution proceedings against the issuer or its promoters, where applicable, or whole time directors on the reference date by the Board or the regulatory authorities in its home country restricting them from accessing the capital markets; and
- d) the issuer has redressed at least ninety five per cent. of the complaints received from the IDR holders before the end of the three months period immediately preceding the month of date of filing the letter of offer with the designated stock exchange.

(2) Where the conditions in sub-regulation (1) are satisfied, the issuer may opt for rights issue of IDRs by filing a copy of the offer document prepared in accordance with the home country requirements along with an addendum containing disclosures as specified in **Part C of Schedule VIII** with the Board for record purposes, before filing the same with the stock exchanges.