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(NEW SYLLABUS)

for

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CORPORATE FUNDING & LISTINGS IN STOCK EXCHANGES

MODULE 3

PAPER 7

1.Indian Equity –Public Funding

Background

With the repeal of Capital Issues (Control)Act,1947all the guidelines, notifications, circulars etc. issued by the office of the Controller of Capital Issues became defunct. SEBI was given the mandate to regulate issuance of securities, which was earlier done by vide its order dated 11.6.1992 called the Guidelines for Disclosures and Investor Protection,1992.

Later, SEBI issued a compendium containing consolidated Guidelines, circulars, instructions relating to issue of capital effective from January 27,2000.The compendium titled SEBI(Disclosure and Investor Protection) Guidelines, 2 000 replaced the original Guidelines issued in June 1992 and clarifications thereof. On September 03August 26, 2009 SEBI rescinded the SEBI (DIP) Guidelines, 2000 and notified SEBI (Issue of Capital and Disclosure Requirements) Regulations,2009.

The ICDR Committee suggested certain policy changes. These suggestions were also taken to the Primary Market Advisory Committee(PMAC) of SEBI which comprises of eminent representatives from the Ministry of Finance, Industry, Market Participants, academicians, Stock Exchanges, Legal Firms, The Institute of Chartered Accountants of India and The Institute of Company Secretaries of India etc.

Types of Issues

Initial public offer (IPO) means an offer of specified securities by an unlisted issuer to the public for subscription and which includes fresh issuance of shares by the company or includes an Offer for Sale(OFS) of specified securities to the public by any existing holder of such securities in an unlisted issuer. In order to qualify as an Initial public offer, the offer of securities must be by an unlisted issuer company and such an issue shall be made to the public and not to the existing shareholders of the unlisted issuer company or to selected group of investors.

Rights Issue of Securities is an issue of specified securities by a company only to its existing shareholders as on a record date in a predetermined ratio.

Private placement refers to an issue where an issuer makes an issue of securities to a selected group of persons not exceeding 200,and which is neither a rights issue nor a public issue. It inter alia includes “Preferential Allotment and “Qualified Institutional Placement” by the listed issuer.

Eligibility requirements for an initial public offer[Regulation6(1)] of ICDR, 2018

In case the Eligibility condition No:2 is not met-

However, in case an issuer does not satisfy the eligibility conditions stipulated above and included in Regulation6(1)of ICDR,2018,it may still make an Initial Public Offer but only through the book building process and further undertake to allot at least 75% of the net offer to the public to qualified institutional buyers(QIBs) and to refund full subscription money if it fails to do so. [Regulation 6(2)].

In case of IPOs under Regulation6(2), if QIBs does not subscribe to allocated 75% of the net offer to public the issue will fail and the issuer company will have to refund full subscription money even though on overall basis the issue may have been over subscribed. Therefore, in these cases, 75% subscription from QIBs is must irrespective of subscription by retail investors and non-retail investors

Indian Equity – Public Funding

Relaxations in respect of the timelines for activities of the Depository Participants ("DPs"), RTAs, Issuers, KYC Registration Agencies ("KRAs"), Stock Brokers.

Vide a Circular dated April 16, 2020, SEBI has provided for certain relaxations in the timelines of some compliance requirements relating to DPs, RTAs, issuers, KRAs, and stock brokers. The Circular prescribes that the time period between March 23, 2020 and May 17, 2020, would now be excluded while computing timelines for the following activities:

- Processing of the dematerialisation request form; and
- Uploading the Know Your Client ("KYC") application form and other relevant and supporting documents on the system of the KRAs.

Further, a period of 15 days from May 17, 2020, has also been granted to SEBI intermediaries so as to clear their backlog.

ASBA [Regulations 35 & 132]

UPI stands for Unified Payments Interface. It is an instant payment system on the mobile platform. It offers inter-bank transfers between any two persons' bank accounts i.e. sending or receiving money in real-time among banks in India. The National Payments Corporation of India (NPCI) developed UPI and is regulated by the RBI.

SEBI view its circular dated November 01, 2018 has introduced UPI in a phased manner as an alternate option for retail investors (Up to Rs. 2 lacs) as a substitute of ASBA to invest in an IPO starting from January 01, 2019. The objective was to eventually cut the time consumed in listing of the company post closure of IPO (T day) from 6 working days (i.e. Listing on T+6) to 3 working days (i.e. listing on T+3).

Thereafter, w.e.f. July 01, 2019, payment through UPI mechanism was made mandatory for retail investors in an IPO. After implementation of Phase III of said SEBI Circular the listing of company will happen within three working days from the date of closure of IPO (i.e. on T+3).

ASBA

SEBI has vide its circular reference number SEBI/HO/CFD/DIL2/CIR/P/2020/13 dated January 22, 2020 has made it mandatory that Application for a rights issue shall be made only through ASBA facility the issuer shall provided the Promoters' Contribution Regulations[14 & 112]

The promoters of the issuer shall hold at least twenty percent of the post-issue capital which is called as Minimum Promoter's Contribution

Additional relaxations in relation to the SEBI listing regulations:

Vide Circulars dated April 17, 2020, and April 23, 2020, SEBI has issued further relaxations and clarifications in respect of certain compliances, required under SEBI Listing Obligations and Disclosure Requirements) Regulations, 2015 ("LODR") to the listed entitles. The key features of the Circular dated April 17, 2020 have been outlined herein:

• Minimum prior intimation to stock exchanges under Regulation 29, LODR of a minimum of 5 days for a board meeting where financial results are to be considered, has now been reduced to 2 days (whether or not working days) for board meetings that would be held until July 31, 2020;

•Delay by listed companies in informing stock exchanges, beyond the stipulated time period of 2 days from receipt of information, regarding loss of share certificates and issue of duplicate certificates would now not attract specified penal provisions for intimations that were made between March 1, 2020 and May 31, 2020;

• Digital signature certifications can/may be used for authentication of any filing and, or submissions made to the stock exchanges under the LODR till June 30, 2020;

• Entities consisting of listed non-convertible debentures and/or non-convertible redeemable preference shares shall be exempted from requirement of publishing advertisements in newspapers relating to its half yearly and annual financial results under Regulation 52(8), LODR until May 15, 2020.

Further, in the Circular dated April 23, 2020, SEBI also relaxed the requirements of holding annual general meeting (“AGM”) by the top 100 listed entities (in terms of market capitalization) while allowing such companies, whose financial year (“FY”) ended on December 31, 2019, to hold its AGM within a period of 9 months (earlier 5 months) from the closure of the FY i.e. up to September 30, 2020.

Availability of letter of offer and other issue materials

Introduction of dematerialized Rights Entitlements (REs)

SEBI has vide its Circular reference number SEBI/HO/CFD/DIL2/CIR/P/2020/13 dated January 22, 2020 introduced dematerialized Rights Entitlements (REs). Salient points related to dematerialized Rights Entitlements and its trading on stock exchange platform are given hereunder:

1.In the letter of offer and the abridged letter of offer, the issuer shall disclose the process of credit of REs in the demat account and renunciation thereof.

2.REs shall be credited to the demat account of eligible shareholders in dematerialized form

3.In REs process, the REs with a separate ISIN shall be credited to the demat account of the shareholders before the date of opening of the issue, against the shares held by them as on the record date

4.Physical shareholders shall be required to provide their demat account details to Issuer /Registrar to the Issue for credit of REs not later than two working days prior to the issue closing date, such that credit of REs in their demat account takes place at least one day before the issue closing date

5.REs shall be traded on secondary market platform of Stock exchanges, withT+2 rolling settlement, similar to the equity shares. Trading in REs on the secondary market platform of stock exchanges shall commence along with the opening of the issue and shall be closed at least four days prior to the closure of the rights issue.

6**.**Investors holding REs in dematerialized mode shall be able to renounce their entitlements by trading on stock exchange platform or off-market transfer. Such trades will be settled by transferring dematerialized REs through depository mechanism, in the same manner as done for all other types of securities

Pricing

Special provisions related to Pricing in preferential issue of shares of companies having Stressed Assets

On June 22, 2020 SEBI has amended the SEBI (ICDR) Regulations, 2018 and relaxed the pricing methodology for preferential issues by listed companies having stressed assets and exempt allottees of preferential issues from open offer obligations in such cases. SEBI has inserted new Regulation 164A and 164B in SEBI (ICDR) Regulations, 2018 making provisions for companies having stressed assets and are summarized hereunder

Pricing in preferential issue of shares of companies having stressed assets [Regulation 164A]

1)In case of frequently traded shares, the price of the equity shares to be allotted pursuant to the preferential issue shall not be less than the average of the weekly high and low of the volume weighted average price of the related equity shares quoted on a recognised stock exchange during the two weeks preceding the relevant date

2)No allotment of equity shares shall be made unless the issuer company meets any two of the following criteria:

a) the issuer has disclosed all the defaults relating to the payment of interest/ repayment of principal amount on loans from banks / financial institutions/ Systemically Important Non-Deposit taking Non-banking financial companies/ Deposit taking Non-banking financial companies and /or listed or unlisted debt securities in terms of SEBI Circular dated November 21, 2019 and such payment default is continuing for a period of at least 90 calendar days after the occurrence of such default;

b)there is an Inter-creditor agreement in terms of Reserve Bank of India (Prudential Framework for Resolution of Stressed Assets) Directions 2019 dated June 07, 2019

c) The credit rating of the financial instruments (listed or unlisted), credit instruments / borrowings (listed or unlisted) of the listed company has been downgraded to “D”.

3)The issuer company making the preferential issue shall ensure compliance with the following conditions:

a)The preference issue shall be made to a person not part of the promoter or promoter group as on the date of the board meeting to consider the preferential issue. The preference issue shall not be made to the following entities:

i. undischarged insolvent in terms of the Insolvency and Bankruptcy Code, 2016;

ii. 'wilful defaulter' as per the guidelines of the Reserve Bank of India issued under the Banking Regulation Act, 1949;

iii. person disqualified to act as a director under the Companies Act,2013;

iv. a person debarred from trading in securities or accessing the securities market by the Board;

Explanation: The restriction under (iv) 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 the board meeting considering the preferential issue.

v.a person declared as a fugitive economic offender;

vi.a person who has been convicted for any offence punishable with imprisonment-

A. For two years or more under any Act specified under the Twelfth Schedule of the Insolvency and Bankruptcy Code, 2016

B. For seven years or more under any law for the time being in force:

Provided that such restriction shall not be applicable to a person after the expiry of a period two years from the date of his release from imprisonment.

vii.A person who has executed a guarantee in favour of a lender of the issuer and such guarantee has been invoked by the lender and remains unpaid in full or part

4)The resolution for the preferential issue and exemption from open offer shall provide for the following:

a) The votes cast by the shareholders in the 'public' category in favour of the proposal shall be more than the number of votes cast against it. The proposed allottee (s) in the preferential issue that already hold specified securities shall not be included in the category of 'public' for this purpose:

Provided that where the company does not have an identifiable promoter; the resolution shall be deemed to have been passed if the votes cast in favour are not less than three times the number of the votes, if any, cast against it.

5)The proceeds of such preferential issue shall not be used for any repayment of loans taken from promoters/ promoter group/ group companies. The proposed use of proceeds shall be disclosed in the explanatory statement sent for the purpose of the shareholder resolution.

6)a) The issuer shall make arrangements for monitoring the use of proceeds of the issue by a public financial institution or by a scheduled commercial bank, which is not a related party to the issuer:

(i) The monitoring agency shall submit its report to the issuer in the format specified in terms of Schedule XI (with fields as applicable) on a quarterly basis until at least ninety five percent of the proceeds of the issue have been utilized.

(ii) 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.

(iii) 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 submit the same to the stock exchange(s) on which the equity shares of the issuer are listed,

b) The proceeds of the issue shall also be monitored by the Audit Committee till utilization of the proceeds.

7) The allotment made shall be locked-in for a period of three years from the last date of trading approval.

8) The statutory auditor and the audit committee shall certify that all conditions under sub-regulations (1), (2), (3), (4) and (5) of regulation 164A are met at the time of dispatch of notice for general meeting proposed for passing the special resolution and at the time of allotment.

Optional pricing in preferential issue [Regulation 164B]

(1) In case of frequently traded shares, the price of the equity shares to be allotted pursuant to the preferential issue shall be determined by regulation 164 or regulation 164B, as opted for.

(2) The price of the equity shares to be allotted pursuant to the preferential issue shall not be less than the higher of the following:

(a) the average of the weekly high and low of the volume weighted average price of the related equity shares quoted on the recognised stock exchange during the twelve weeks preceding the relevant date; or

(b) the average of the weekly high and low of the volume weighted average prices of the related equity shares quoted on a recognised stock exchange during the two weeks preceding the relevant date.

(3) Specified securities allotted on a preferential basis using the pricing method determined under sub-regulation (2) shall be locked-in for a period of three years.

(4) The pricing method determined at sub-regulation (2) shall be availed in case of allotment by preferential issue made between July 01, 2020 or from the date of notification of this regulation, whichever is later and December 31, 2020.

(5) All allotments arising out of the same shareholders approval shall follow the same pricing method.

Securities and Exchange Board of India (Infrastructure Investment Trusts) (Second Amendment) Regulations, 2020

On 16 June 2020, SEBI issued the Securities and Exchange Board of India (Infrastructure Investment Trusts) (Second Amendment) Regulations, 2020 (which came into force from 16 June 2020) to further amend the Securities and Exchange Board of India (Infrastructure Investment Trusts) Regulations, 2014. In terms of the amendment, new clauses have been introduced that, amongst others, provide for:

a. de-classification of the status of a sponsor(s) of an Infrastructure Investment Trusts (InvIT) whose units have been listed on the stock exchanges for a period of three years shall be permitted upon receipt of an application from the InvIT and subject to compliance with the following conditions: i. The unit holding of such sponsor and its associates taken together does not exceed 10% of the outstanding units of the InvIT;

ii. The investment manager of the InvIT is not an entity controlled by such sponsor or its associates;

iii. Approval of unit holders has been obtained in accordance with sub-regulation 4 of Regulation 22 (related to rights and meetings of unit holders).

b. No person, other than sponsor(s), its related parties and its associates, shall acquire units of an InvIT which taken together with units held by such person and by persons acting in concert with such person in such InvIT, exceeds 25% of the value of outstanding InvIT units unless approval from 75% of the unit holders by value excluding the value of units held by parties related to the transaction, is obtained. Provided that if the required approval is not received, the person acquiring the units shall provide an exit option to the dissenting unit holders to the extent and in the manner as may be specified by the Board.

Framework for Regulatory Sandbox

On 5 June 2020, the Securities and Exchange Board of India ("SEBI") introduced a framework for "Regulatory Sandbox". Under this sandbox framework, entities regulated by SEBI shall be granted certain facilities and flexibilities to experiment with financial technologies ("FinTech") solutions in a live environment and on limited set of real customers for a limited time frame. These features shall be fortified with necessary safeguards for investor protection and risk mitigation.

SEBI believes that encouraging adoption and usage of FinTech can act as an instrument to further develop and maintain an efficient, fair and transparent securities market ecosystem. Towards this end, SEBI on 20 May 2019, stipulated a framework for an industry-wide Innovation Sandbox, whereby FinTech startups and entities not regulated by SEBI were permitted to use the Innovation Sandbox for offline testing of their proposed solution.

The framework for "Regulatory Sandbox" as issued by SEBI provides for the following aspects:

a. Applicability,

b. Eligibility criteria for the project,

c. Application and approval process,

d. Evaluation criteria,

e. Regulatory exemptions,

f. Submission of test related information and reports,

g. Obligations of the applicant towards the user,

h. Extending or exiting the Sandbox,

i. Revocation of the approval, and

j. Regulatory Sandbox Application Form

Lesson 4

Indian Equity Private Funding

Capital Market Investment Institutions

The Union Cabinet, chaired by the Prime Minister has approved the proposal of Securities & Exchange Board of India (SEBI) to sign an updated Alternative Investment Fund Managers Directive (AIFMD) MoU signed between SEBI and Financial Conduct Authority (FCA), UK, pursuant to UK's exit from the European Union on 31st January 2020.

Major Impact:The UK exited the EU on 31st January 2020. FCA, UK had submitted to SEBI that no transitional measures would be available if the amended MoU is not signed before the date when the UK exits the European Union (Brexit), and requested SEBI to sign an updated MoU as early as possible. As such, the proposal is not expected or intended to have any effect on employment in India.

Alternative Investments Fund Managers Directive

• The Alternative Investment Fund Managers Directive (AIFMD) is a European Union (EU) regulation that applies to hedge funds, private equity funds, and real estate funds.

• The AIFMD sets standards for marketing around raising private capital, remuneration policies, risk monitoring, and reporting, and overall accountability.

• The AIFMD is part of an increased push for investor protections that the EU undertook just prior to the 2007-08 financial crisis.

International Collaboration

SEBI is a signatory to the IOSCO Multilateral Memorandum of Understanding Concerning Consultation and Cooperation and the Exchange of Information (MMoU).

• The International Organization of Securities Commissions (IOSCO) is the worldwide association of national securities regulatory commissions, such as the Securities and Exchange Commission in the United States, the Financial Services Authority in the United Kingdom, and about 100 other similar bodies.

• The existence of such cooperation agreements between EU and non- EU authorities is a precondition for allowing greater market access and cross border functioning of the AIF business.

• These MoUs would thus enable Indian fund managers to manage or market AIFs in the EU region and the EU fund managers to manage or market AIFs in India.

Investment by the sponsor or asset management company in the scheme

In terms of the SEBI (Mutual Funds) (Amendment) Regulations, 2020, the sponsor or asset management company is required to invest not less than 1% of the amount which would be raised in the new fund offer or fifty lakh rupees, whichever is less in such option of the scheme, as may be specified by the Board.

In this regard, on 12 June 2020, SEBI decided that the above referred investment shall be made in growth option of the scheme. For such schemes where growth option is not available the investment shall be made in the dividend reinvestment option of the scheme. Further, for such schemes where growth option as well as dividend reinvestment options, are not available the investment shall be made in the dividend option of the scheme. This Circular shall come into force with immediate effect.

Lesson 12

Securitization

Reduced burden on registrars to issue and share transfer agents ("RTAs")

In its Circular dated April 13, 2020, SEBI extended the time period for completion of certain activities that were required to be carried out by the RTAs holding category I or II, SEBI registration or issuer companies, within 21 days, in addition to the prescribed time period. Such activities include: process of re-materialization and/or transmission request, processing of issuance of duplicate share certificates, processing of requests for deletion/ change in name etc., handling investor grievances/SCORES complaints, audit and compliance reports, and other similar necessities.

Lesson 13

Listing–Indian Stock Exchanges

Credit Rating Agencies

In a move to further strengthen the credit rating process, market regulator SEBI directed credit rating agencies (CRAs) to downgrade an instrument to ‘non-investment grade with issuer not cooperating (INC) status’, if all outstanding ratings of the issuer remain non-cooperative for more than six months.

If non-cooperation by the issuer continues for a further six months from the date of downgrade to non-investment grade, no CRA should assign any new ratings to such issuer, until the company resumes cooperation or the rating is withdrawn, SEBI further said.

SEBI has also relaxed the norms for CRAs to withdraw from an issue, which has multiple ratings. The rating agency is allowed to withdraw if it has rated an instrument for three years continuously or for 50 per cent of the tenure of the instrument, whichever is longer, said SEBI.

Additionally, the CRA must have received a no-objection certificate from 75 per cent of the bondholders of the outstanding debt for withdrawal of rating. The CRA must also have received an undertaking from the issuer that another rating is available on that instrument, SEBI said.

Further, at the time of withdrawal, the CRA should assign a rating to such instrument and issue a press release in the prescribed format mentioning the reason for withdrawal of rating.

Earlier, SEBI had tightened the norms from CRAs to exit from the issue based on lack of information provided by the issuer.

If the company stops cooperating with the CRA and does not provide information, the CRA must continue to publish a rating accompanied with the statement, 'issuer did not cooperate, based on best available information'.

Lesson 15

Preparing a Company for an IPO and Governance Requirements

Modifications in heading- PRINCIPLES UNDER SEBI (LISTING OBLIGATIONS AND DISCLOSURE REQUIREMENTS) REGULATIONS, 2015

Common Obligations for a Listed Entity

The following para to be read in continuation after Regulation 5: General obligations of compliance

It may be noted that under this regulation, the responsibility has been cast on the listed entity. Therefore, it is very important for a listed entity to have adequate system in place to check and ensure that entities mentioned above complies with responsibilities and obligations assigned to them under these regulations.

Regulation 14: Fees and other charges

- ✓ It may be noted that non-payment of fees and other charges to Stock Exchanges may, among other actions, lead to suspension of trading in the securities of the company and eventually delisting of the company from Stock Exchange.

Regulation 28: In-Principle approval of the Recognized Stock Exchange(s)

- ✓ The requirement of obtaining in-principle approval from recognised stock exchange(s), shall not be applicable for securities issued pursuant to the scheme of arrangement for which the listed entityhasalreadyobtainedNo-ObjectionLetterfromrecognisedstockexchange(s) in accordance withregulation37. It may be noted that this requirement is exempted because such companies are required to obtain the NOC from the stock exchanges in terms of Regulation 37 .

Regulation 30: Disclosure of Events or Information

- ✓ Event mentioned in schedule III **PartA** are **deemed to be material** and needs to be disclosed irrespective of the opinion of the listed entity regarding its materiality whereas **Part B** of Schedule III covers such events where test of materiality can be applied by the listed entity and disclosure is to be made as per the policy of materiality made by the company in this regard.

Regulation 31: Holding of specified securities and Shareholding Pattern

(b) On a quarterly basis, within twenty one days from the end of each quarter; and for companies listed on SME platform, it is to be submitted on half yearly basis,

Regulation 33: Financial Results

(2) The approval and authentication of the financial results shall be done by listed entity in the followingmanner:

(a) The quarterly financial results **(Half yearly in case of SME Companies)*** submitted shall be approved by the board of directors:

*** This is the new addition in the contents.**

Lesson 16

Documentation

The latest updates pertaining to documentation on the following points may be accessed from the following link:https://www.bseindia.com/static/about/downloads.aspx

1. Format for company details.
2. Compliance Format under Listing Regulations (LODR) 2015.

3. Disclosure Format under SEBI SAST Regulation 2011 & PIT Regulations 2015

4. Listing Agreement

5. Checklist & Forms (Guideline to help companies to ensure compliance)

6. Formalities /Formats for Buyback of shares by a company.

7. No Objection Certificate for release of 1% of issue amount.

8. Historical Agreements & Historical Formats