



cyril amarchand mangaldas
advocates & solicitors

handbook on listing in india

a primer 2nd edition



cyril amarchand mangaldas

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I. INTRODUCTION

Two and a half decades of liberalised economic policies, dynamic regulations and regulators have transformed Indian corporates and India, into a hub of global investment. To observers of this ‘India story’, it comes as no surprise that the Indian economy is one of the fastest growing amongst the major developing economies of the world. That global access to the Indian capital markets has been at the heart of this transformation may well be an aphorism.

While the birth of the Indian capital markets, as we know it today, took place more than 25 years ago, it underwent a sea change with the liberalization era ushered in by the New Industrial Policy of 1991. The Securities and Exchange Board of India (“SEBI”) was constituted to protect the interests of investors in securities and to promote and regulate the securities market, the National Stock Exchange of India Limited (“NSE”) was set up, recognition was granted to Foreign Institutional Investors (“FIIs”) and global standards of governance and banking were introduced.

In the initial years, there developed a tendency for large offerings to be exported in the international markets by selling and offering securities only in more developed markets and listing on global stock exchanges through depository receipts and convertible bonds. While that certainly continues to be an option, the ability to sell and place large offerings of international size in India and raise capital is now a reality. The initial public offering by the public sector company, Coal India Limited, was one of the largest in the world in 2010. The IPO of Equitas Holdings Limited in early 2016, which raised over ₹ 27,750 million was sold entirely to domestic investors. For listed companies, qualified institutions placements have proved to be a meaningful option to raise large amounts of capital.

2016 was one of the best years for primary markets in recent times. More than two dozen companies raised in excess of ₹ 260,000 million during the year, which was more than two times the amount raised in year 2015. It also marked the entry of the life insurance industry in the Indian primary market, with ICICI Prudential Life Insurance Company Limited raising approximately ₹ 60,570 million through its initial public offering, making it the second largest IPO after the Coal India Limited IPO in 2010.

In 2016, Cyril Amarchand Mangaldas continued to maintain its position as the leading capital markets law firm of the country, having acted as counsel to, either the issuer or the lead managers, on 17 completed IPOs. In addition to the ICICI Prudential Life Insurance Company Limited and Equitas Holding Limited IPOs mentioned above, some of our other notable IPOs in 2017 included Ujjivan Financial Services Limited, Mahanagar Gas Limited, Larsen & Toubro Infotech Limited, L&T Technology Services Limited and PNB Housing Finance Limited. The year 2017 is an important year for us. It represents the 2nd year of our firm, “**Cyril Amarchand Mangaldas**”. More importantly, it also represents the 100th year of our legacy firm, “**Amarchand & Mangaldas & Suresh A. Shroff & Co.**” and marks the continuation of the values and legacy that took us forward. We look forward to another successful year in the capital markets practice area.

The strengthening of the Indian capital markets can be attributed to several factors ranging from increased domestic savings, transparent and an increasingly efficient regulatory system, liberalisation of the investment guidelines in the banking, insurance, retail, broadcasting, aviation, telecommunication and other sectors and increase in investment choices for investors. Increasing FPI participation has added to the confidence of the general public in the Indian capital markets. Increased retail participation was also a major contributor to growth in the market.

A look at recent offer documents or prospectuses will indicate a much closer resemblance to international prospectuses and disclosure standards. SEBI has progressively enhanced and tightened compliance of disclosure standards. The book building route has proved to be the most popular and effective mechanism to raise equity. The regulatory framework developed by SEBI has boosted investor confidence. SEBI has emphasized the need for transparency, both in the disclosures required to be made by the company and its promoters, and in the bidding process itself. 2016 also saw ASBA (Application supported by blocked amount) becoming mandatory for all investors in IPOs. This coupled with the T+6 settlement timeline has aided in boosting investors confidence. Investor protection has been the focus of this regulatory regime.

We present this handbook to enable readers to comprehend the basics of the systems, procedures and rules that are essential for

corporates seeking to access the Indian capital markets. The primary focus of this handbook is equity listing through the book building process. This handbook has been updated until December 31, 2016.

NOTE: All information given in this handbook has been compiled from credible, reliable sources. Although reasonable care has been taken to ensure that the information in this handbook is true and accurate, such information is provided 'as is,' without any warranty, express or implied as to the accuracy or completeness of any such information. Cyril Amarchand Mangaldas shall not be liable for any losses incurred by any person from any use of this publication or its contents. This handbook does not constitute legal or any other form of advice from Cyril Amarchand Mangaldas. Readers should consult their legal, tax and other advisors before making any investment or other decision with regard to any business in India.

Mumbai
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II. INITIAL PUBLIC OFFERINGS

A. WHO CAN LIST?

1. What is 'listing' and a 'listed company'?

'Listing' refers to admission of securities to dealings on a recognised stock exchange. A 'listed company' is a company, whose securities (including debt securities) are listed on a recognised stock exchange. An unlisted company can list its equity shares (or securities convertible into equity shares) only pursuant to a public issue; however, it may list its debt securities whether they are issued pursuant to a public issue or through private placement.

For the purpose of this primer, we have focussed on listing of equity shares and all references to 'listing' are to listing of equity shares, unless otherwise specified.

2. What is a public issue of securities?

In accordance with the SEBI Regulations, a public issue of securities is an offer of equity shares or securities convertible into equity shares by an unlisted company, by way of an initial public offer or by way of a further public offer by a listed company to the public. A public issue may also be made through an offer for sale of securities by existing holders of such securities, subject to satisfaction of certain conditions.

3. What kind of securities may be issued to the public?

A company can issue equity shares or debt instruments or preference shares, which are convertible into equity shares. Non-convertible debt securities of an Indian company can also be issued to the public and be listed.

4. Are there any companies which are ineligible to undertake an IPO?

An unlisted issuer, which is covered by any of the categories set below cannot undertake an IPO:

- (a) If the issuer, its directors, promoter(s), promoter group or persons in control of the issuer are debarred from accessing the capital markets by SEBI;
- (b) If the directors, any of the promoter(s), or persons in control of the issuer, was or is a promoter, director or a person in control of any other company which is debarred from accessing the capital markets under any direction or order passed by SEBI; or
- (c) If the issuer or any of its director or promoter(s) is declared as a willful defaulter by any bank or financial institution or a consortium thereof in accordance with the guidelines on willful defaulters issued by the RBI.

5 What are the track record requirements for an unlisted issuer to undertake an IPO?

In accordance with the SEBI Regulations, an unlisted issuer can undertake an IPO, if:

- (a) it has net tangible assets of at least ₹ 30 million in each of the preceding three full years (of 12 months each) of which not more than 50% is held in monetary assets. If more than 50% of the net tangible assets are held in monetary assets, firm commitments to utilize the excess monetary assets in its business or project should have been made by the issuer.

However, the limit of 50% on monetary assets shall not be applicable in case the IPO is made entirely through an offer for sale;

- (b) it has a minimum average pre tax operating profit of ₹ 150 million, calculated on restated and consolidated basis during three most profitable years out of immediately preceding five years;
- (c) it has a pre-IPO net worth of ₹ 10 million in each of the three preceding years;
- (d) the aggregate size of the proposed IPO and all previous issues made in the same financial year should not exceed five times the pre-IPO net worth of the issuer in accordance with its audited balance sheet of the preceding financial year; and

- (e) if the issuer has changed its name within the last one year, at least 50% of the revenue of the preceding full one year should have been earned by the issuer from the activity suggested by the new name.

6. Can an issuer which does not satisfy the above criteria undertake an IPO?

Yes. Issuers which do not satisfy the track record criteria set out in question 5 above, can undertake an IPO only through a book built offering and will be required to allot at least 75% of the net public offer, to QIBs.

7. Are the securities issued through a public issue required to be in dematerialised form?

Every issuer making a public offer is required to issue securities in dematerialised form only. The depositories, namely, National Securities Depository Limited and the Central Depository Services (India) Limited, are engaged for dematerialisation of securities.

8. What is a pre-IPO placement?

A pre-IPO placement refers to an issuance of equity shares, or securities convertible into equity shares, by an issuer after filing of the Draft Red Herring Prospectus with SEBI and prior to the filing of Red Herring Prospectus. The Draft Red Herring Prospectus is required to disclose the maximum number of equity shares that may be issued and the maximum amount to be raised. Convertible securities issued through pre-IPO placement have to be converted into equity shares prior to filing of the Red Herring Prospectus.

9. What is the minimum dilution required in an IPO?

The minimum percentage of equity shares required to be offered to the public (through a fresh issue, an offer for sale or a combination of the two) in an IPO is as follows:

- If the post-IPO equity share capital of an issuer is less than or equal to ₹ 16,000 million, at least 25% of each class of the equity shares shall be offered to the public;

- If the post-IPO equity share capital of an issuer is more than ₹ 16,000 million but less than or equal to ₹ 40,000 million, then such percentage of the equity shares equivalent to ₹ 4,000 million shall be offered to the public; and
- If the post-IPO equity share capital of an issuer is equal to or more than ₹ 40,000 million, at least 10% of each class of the equity shares shall be offered to the public.

In the event that the initial public shareholding is less than 25%, the issuer shall be required to increase its public shareholding to 25% within a period of three years from the date of listing of the equity shares in the manner specified by SEBI. For the above purpose, 'public' refers to shareholders other than the promoters, promoter group and subsidiaries.

10. What are the corporate approvals required for an issue of equity shares in India?

An IPO of equity shares requires the authorisation of the board of directors of the issuer to undertake an issue of equity shares. Further, the issuer is required to obtain the approval of the shareholders of the issuer by way of a special resolution.

In the case of an offer for sale, the approval of the board of directors of the issuer is required, in addition to any other approvals that the selling shareholders may require under applicable law.

11. What are the various intermediaries and their roles in an IPO?

The following are intermediaries that are appointed by an issuer:

11.1 Book Running Lead Managers

The issuer is required to appoint at least one or more merchant bankers, registered under the SEBI MB Regulations, as the BRLMs for the IPO and at least one of them shall be the lead merchant banker. An issuer can file a Draft Red Herring Prospectus with SEBI only through a BRLM. If the BRLM is an associate of the issuer, its role shall be limited to marketing of the IPO.

The BRLMs, are expected to exercise due diligence and are required to file a due diligence certificate along with the Draft Red Herring Prospectus and at subsequent stages. Further, the BRLMs also assist in drafting of the Draft Red Herring Prospectus, the Red Herring Prospectus and the Prospectus and advise the issuer on the appointment of other intermediaries.

The BRLMs interact with SEBI and the stock exchanges throughout the IPO process, including obtaining the final SEBI observations and receiving in-principle and final listing approvals from the stock exchanges. The BRLMs also assist the issuer in co-ordinating road shows for marketing of the IPO.

The BRLMs have post-IPO obligations such as filing monitoring reports with SEBI and redressal of investor grievances (including in relation to allotment, refunds, dispatches and ensuring payment of interest to the applicants).

11.2 Registrar to the IPO

The Registrar to the IPO, an entity registered with SEBI, is required to accept application forms from investors in the IPO and processes application forms received from syndicate members or SCSBs and co-ordinate the process for allotment of equity shares and refund of subscription amounts where equity shares are not allotted to the applicant. The Registrar is also required to accurately maintain physical and electronic bid data for bids received, including maintaining application forms received.

11.3 Statutory Auditors of the Company

They audit and deliver a report on the issuer's financial statements for inclusion in the Draft Red Herring Prospectus, the Red Herring Prospectus and the Prospectus. The report includes audited financial statements prepared in accordance with the Companies Act and applicable accounting standards that are restated in accordance with the requirements specified under the SEBI Regulations.

The auditor also prepares a statement of special tax benefits, if any, available to the issuer, its subsidiaries and its shareholders.

Further, market practice also requires the auditor to deliver “comfort letters” to the BRLMs at various stages in the issue process, which relates to “negative assurance” or changes in certain line items after the date of the last audit, and confirmations on the financial data, statements and other financial and operational data included in the Draft Red Herring Prospectus, the Red Herring Prospectus and the Prospectus. There is a requirement for the statutory auditors to be peer reviewed.

11.4 Escrow Collection Bank(s)

Escrow collections bank act as the escrow agent in relation to the application money received as part of the public issue from Anchor Investors. The issuer opens the relevant escrow accounts with escrow collection banks for collecting the application money received from Anchor Investors. An escrow collection bank also handles refunds of excess amount received from Anchor Investors. An escrow account is the account from which application money is either refunded to the applicants, or transferred to a “public issue account”.

11.5 Advertising Agency

An advertising agency is responsible for advertising and public relation activities related to the IPO and provide the information to the BRLMs to enable them to submit compliance certificate to SEBI in relation to certain news reports as specified in Regulation 60 of the SEBI Regulations.

11.6 Monitoring Agency

The SEBI Regulations require that if the size of the IPO (excluding offer for sale component) exceeds ₹ 5,000 million, the issuer shall be required to ensure that the proceeds of the IPO are monitored by a public financial institution or by one of the scheduled commercial banks named in the Draft Red Herring Prospectus, the Red Herring Prospectus and the Prospectus as the banker of the issuer. Such monitoring agency will be required to submit its report to the issuer in the format, and at such times, as specified in the SEBI Regulations.

The following are intermediaries that are not specifically appointed by the issuer:

11.7 Syndicate Members or SCSBs or Registered Brokers or Collecting Depository Participants or Registrar and Share Transfer Agents

Syndicate Members or SCSBs or Registered Brokers or Collecting Depository Participants or Registrar and Share Transfer Agents collect application forms from applicants during the IPO period, and enter details into the electronic bidding system on the stock exchanges and undertake preliminary verification prior to sending the application forms to the Registrar. Syndicate members and registered brokers can accept both, (i) ASBA Bidders, and (ii) Anchor Investors.

12. What is the ASBA mechanism?

ASBA is a mechanism prescribed by SEBI to apply in an IPO, wherein the application money can be blocked in the bank account provided in the application form until just prior to allotment of the securities as opposed to application amount being submitted along with the application form.

13. Is participation in an IPO through the ASBA process mandatory?

The ASBA process is mandatory for investors other than Anchor Investors in any initial or further public offering by an issuer.

B. WHAT ARE THE VARIOUS TRANSACTION DOCUMENTS?

1. What is an Issue Agreement?

The Issue Agreement is entered into among the BRLMs and the issuer prior to the filing of the Draft Red Herring Prospectus with SEBI. It sets out, amongst other things, the roles and responsibilities of the BRLMs, the conditions precedent to the BRLMs' obligations, representations and warranties from the issuer and BRLMs, details of the indemnity provided by the issuer to the BRLMs and provisions for termination of the BRLMs' engagement. The obligations of BRLMs are several and not joint. The fee arrangement is typically governed by an engagement letter entered into between the issuer and each BRLM. If the IPO has an offer for sale component, the selling shareholders are also a party to the issue agreement.

2. What is an Escrow Agreement?

The Escrow Agreement sets out the arrangement for collection of application/bid amount from Anchor Investors. This agreement is entered into amongst the issuer, the BRLMs, the syndicate members, the escrow collection banks and the Registrar (and the selling shareholders, in case of an offer for sale). This agreement also provides for the arrangement by which the funds in the escrow accounts are transferred to the refund account or the public issue account, as applicable.

3. What is a Syndicate Agreement?

The Syndicate Agreement sets out the obligations between the BRLMs and the rest of the syndicate. This agreement lists out the role and obligation of each syndicate member. The issuer (and the selling shareholders, if any) are confirming parties to the syndicate agreement.

4. What is an Underwriting Agreement?

The Underwriting Agreement is entered into amongst the issuer, the selling shareholders (if any) and the underwriters

after the determination of the IPO price and allocation of equity shares, but prior to the filing of the prospectus with the registrar of companies. Under the terms of the underwriting agreement, the underwriters agree to ensure payment with respect to the equity shares allocated to investors procured by them and, in the event of any default in payment, the respective underwriter is required to procure purchasers for, or purchase, the equity shares to the extent of the defaulted amount. It also includes among other things, conditions precedent to the individualities obligations, representations and certain covenants by the issuer and the indemnity provisions.

5. What is a Registrar Agreement ?

This agreement is entered into amongst the issuer and the registrar to the issue, whereby the issuer appoints the registrar for the issue. This agreement sets forth the rights and obligations of the registrar in the issue process.

6. What is a Service Provider or Ad Agency Agreement?

This is an agreement entered into amongst the issuer, the BRLMs and the service provider or advertising agency. It sets out the obligations of the advertising agency and the issuer and the services provided by the advertising agency for advertising and media relations in respect of the IPO.

7. Is the issuer required to enter into an agreement with the SCSBs, the Registrar and Share Transfer Agents, the Collecting Depository Participants and Registered Brokers?

No, however, the issuer is required to take cognisance of the deemed agreements with the SCSBs, the Registrar and Share Transfer Agents, the Collecting Depository Participants and Registered Brokers.

C. PROCESS FOR LISTING

1. What is the process for listing?

Set out below are the indicative steps and process for an IPO, which has been divided into six stages:

(a) *Pre-filing of the Draft Red Herring Prospectus*

- Appointment of BRLMs and legal counsels
- Kick-off meeting where the senior management provides an overview of the issuer and its business to the BRLMs and the legal counsels and the IPO timelines are discussed
- Preparation of data room
- Commencement of the due diligence exercise, simultaneously with commencement of drafting of the Draft Red Herring Prospectus

(b) *Filing of the Draft Red Herring Prospectus (not applicable in fast track issues)*

- Execution of the issue agreement
- Executed standard certificates are provided by the issuer, its directors, subsidiaries, promoters, promoter group, group companies, and selling shareholders, if any, and executed comfort letter is provided by the auditors.
- Filing of the Draft Red Herring Prospectus with SEBI along with the due diligence certificate
- Filing of applications to the stock exchanges for the in-principle listing approval

(c) *SEBI review and receipt of final SEBI observation (not applicable in fast track issues)*

- Replying to interim observations received from SEBI and updating the Draft Red Herring Prospectus
- Receipt of final observation from SEBI (valid for one year)

(d) Post final SEBI observation and filing of the Red Herring Prospectus

- Filing reply to final observations received from SEBI and updated Draft Red Herring Prospectus (after incorporating SEBI's observations and other updates resulting from efflux of time)
- Receipt of SEBI approval for the updated Draft Red Herring Prospectus
- Execution of escrow agreement and syndicate agreement
- Signing of updated standard certificates and comfort letter
- Filing of the Red Herring Prospectus with Registrar of Companies and obtaining the Registrar of Companies' approval

(e) Issue period

- The issuer shall announce the price band at least five days before opening of the bid period for an IPO (one day in case of an FPO)
- Opening of the bidding period for subscription by all investors except Anchor Investors (Anchor Investor process discussed separately) for at least three working days
- Bidding closes

(f) Post issue period

- The Registrar to get electronic bid details from stock exchange
- Finalisation of the IPO price and filing of the final Prospectus with Registrar of Companies and execution of the Underwriting Agreement
- The Registrar to submit final basis of allotment to the designated stock exchange
- The Registrar and BRLMs to issue funds transfer instructions to collecting banks and SCSBs for credit of funds into the public issue account

- The issuer is to allot the equity shares and credit of equity shares to the demat account of successful bidders commences
- The issuer is to make listing application to stock exchanges. Stock exchanges to provide final listing and trading approval
- Trading commences

2. Are the investors categorized? If yes, how is allotment made to different categories?

Yes. Investors are categorised into QIBs, non institutional investors and retail individual investors.

- (a) If an issuer meets eligibility requirements under A(4) and undertakes an IPO through book building process, it shall allocate not less than 35% of the IPO to retail individual investors, not less than 15% of the IPO to non-institutional investors and not more than 50% of the IPO to QIBs; and
- (b) In cases where the companies do not meet the eligibility conditions specified in A(5), they shall allocate not more than 10% to retail individual investors, not more than 15% to non-institutional investors and not less than 75% to QIBs.

Allotment to QIBs and non-institutional investors is done on a proportionate basis. In case of retail investors, allotment should be for minimum bid lot subject to availability and thereafter on proportionate basis. Further, allotment to QIBs is split as follows :

- (a) 5% is allocated to registered mutual funds; and
- (b) Balance of the QIB portion is allocated to QIB investors, including mutual funds.

3. Who are Anchor Investors?

- (i) An issuer undertaking a public issue of securities has the option to allocate up to 60% of the portion of the issue available for allocation to the QIBs, to “Anchor

- Investors”. Anchor Investors are QIBs making an application for a value of ₹ 100 million or more in a public issue. Bidding by Anchor Investors opens one day before the issue opening date and allocation must also be completed on the same day.
- (ii) One-third of the Anchor Investor portion is required to be reserved for Indian mutual funds.
 - (iii) Allocation to Anchor Investors is on a discretionary basis and subject to the following:
 - maximum of two Anchor Investors for allocation up to ₹ 100 million;
 - minimum of two and maximum of 15 Anchor Investors for allocation between ₹ 100 million and ₹ 2,500 million, subject to minimum allotment of ₹ 50 million per Anchor Investor; and
 - minimum of five and maximum of 25 Anchor Investors for allocation above ₹ 2,500 million, subject to minimum allotment of ₹ 50 million per Anchor Investor.
 - (iv) If the final IPO price is higher than the price at which allocation is made to Anchor Investors, the Anchor Investors are required to bring in the additional amount. However, if the final IPO price is lower than the price at which the allocation is made to Anchor Investors, the excess amount cannot be refunded to the Anchor Investor and the Anchor Investor shall receive allotment at the higher price.
 - (v) Neither the BRLMs nor any person related to the promoter or promoter group or merchant bankers in the concerned public issue can apply under the Anchor Investor portion. The parameters for selection of Anchor Investors are required to be clearly identified by the BRLMs.
 - (vi) Equity shares allotted to Anchor Investors are locked in for a period of 30 days from the date of allotment in the issue.

4. **What is a ‘confirmation of allocation note’?**

Confirmation of allocation note or the CAN is the advice or intimation of (An Allotment advice is sent to other investors) securities of the issuer sent to the Anchor investors who have been allocated securities upon finalisation of the basis of allocation.

5. **What are the methods of pricing under Indian law?**

Under the SEBI Regulations, an issuer may determine the price (and, in the case of convertible debt instruments, the coupon rate and the conversion price) in consultation with the lead merchant banker (a fixed price issue) or through the book building process (a book built issue).

6. **What is the difference between a fixed price offering and a book built offering?**

In a fixed price offering, the issue price is fixed at the time of opening of the IPO and forms a part of the offer document. In a book built offering, the prospective investors have the option of investing at a price within a price band which may be mentioned in the Red Herring Prospectus and is advertised prior to opening of the IPO.

Additionally, a fixed price offering is a two-stage process, where the Draft Red Herring Prospectus is filed with SEBI for comments, and thereafter the Prospectus is filed with the Registrar of Companies. In a book built offering, on the other hand, there is a three stage process, where the Draft Red Herring Prospectus is filed with SEBI for comments, the Draft Red Herring Prospectus updated in accordance with comments received from SEBI and the Red Herring Prospectus is filed with the Registrar of Companies, and thereafter, the Prospectus with the issue price is filed with the Registrar of Companies.

7. What is book building?

The SEBI Regulations define 'book building' as a process undertaken to determine the demand and to assess the price for determination of the quantum or value of securities proposed to be issued by the issuer.

8. How are bids collected in book building?

During the period specified period, investors submit a Bid cum Application Form to the SCSBs, syndicate members Registered Brokers, CDPs and Registrar and Share Transfer Agents indicating the number of securities and the price within the price band at which they wish to subscribe to the securities of the issuer.

Each Bid cum Application Form gives the Bidder the choice to bid for securities at three optional prices within the price band and specify the number of equity shares bid for against each such price.

Bid amounts collected are deposited in the escrow account in terms of the Escrow Agreement or in case of ASBA bids, an amount equivalent to the Bid Amount will be blocked by the SCSBs in the bank account specified in the Bid cum Application Form.

The SCSBs, syndicate members or Registered Brokers enter each bid option of each Bidder into the electronic bidding system as a separate Bid.

After determination of the IPO price, the maximum number of equity shares bid for by a Bidder at or above the IPO price is considered for allocation and the rest of the Bid(s), irrespective of the bid price, are automatically rejected.

9. Who fixes the price of securities in an issue?

After the IPO Closing Date, the BRLMs, the issuer, and the selling shareholder, if any, analyse the demand generated at various price levels. Thereafter, the issuer in consultation with the selling shareholder, if any, and the BRLMs, finalise the issue price and the number of equity shares to be allotted to each category of investors.

10. When is the Allotment of securities completed?

Allotment of securities is required to be done within four days of the IPO closing date. After the funds are transferred from the Escrow Account and ASBA accounts to the public issue account on the designated date, the successful bidders' depository accounts are credited within two working days of the date of Allotment.

11. What is promoters' contribution?

In terms of the SEBI Regulations, not less than 20% of the post-IPO equity share capital should have been contributed by a promoter in the IPO.

For the calculation of promoters' contribution, the following securities, amongst others, shall be ineligible for the computation of promoters' contribution:

- The securities that have not been acquired in the last three years for consideration other than cash and revaluation of assets or capitalisation of intangible assets;
- Equity shares acquired through a bonus issue of equity shares out of revaluation reserves or unrealised profits of the issuer or bonus equity shares acquired on the basis of ineligible equity shares in the last three years; or
- Equity shares acquired during the preceding one year and at a price lower than the price at which the equity shares are being offered to the public in the IPO, subject to certain other requirements.

12. What are the lock-in requirements?

In terms of the SEBI Regulations, lock-in requirements are of two types: (i) that which applies to the promoters of the issuer in respect of the promoters' contribution; and (ii) that which applies to all holders of the pre-IPO equity share capital of the issuer (including, the promoters for their holding in excess of the promoters' contribution).

13. What are the lock-in requirements applicable to promoters?

In terms of the SEBI Regulations, promoters of the issuer are required to lock-in equity shares held by them representing 20% of the post-IPO equity share capital of the issuer for a period of three years. This lock-in commences from the date of allotment in the public issue for a period of 3 years or the date of commencement of commercial production by the issuer, whichever is later. The remaining shareholding of the promoters shall be locked-in for a period of one year from the date of the Allotment or date of commencement of commercial production, whichever is later.

This restriction is, however, inapplicable to companies that have been listed and the equity shares are not infrequently traded for three years and have a track record of paying dividend for the three immediate preceding years; and to companies that have no identifiable promoter.

14. What are the lock-in requirements applicable to the shareholders other than promoter shareholders?

The entire pre-IPO equity share capital held by persons other than promoters shall be locked-in for a period of one year. However, this will not be applicable to (i) equity shares allotted to employees under any stock option scheme prior to the IPO in the event disclosures are made in accordance with the SEBI Regulations; and (ii) equity shares held by a VCF or Category I AIF or an FVCI, provided that such equity shares shall be locked-in for a period of one year from the date of purchase by such VCF, AIF or FVCI.

15. What is a green shoe option?

The green shoe option under the SEBI Regulations is a mechanism to ensure price stability of the securities of an issuer, and to protect the issuer and the investors from price volatility, immediately after listing for a period of 30 days. Whilst the decision to have such an option has to be taken at

the time of filing the Draft Red Herring Prospectus, the actual decision to exercise the option has to be taken at the time of pricing of the IPO. Additional equity shares (up to 15% of the IPO size) can be borrowed from either a promoter or a large shareholder and allotted at the time of allotment to investors.

After listing of the securities, the stabilization agent (who has to be one of the BRLMs) may undertake price stabilization for 30 days by purchasing equity shares from the market if the price falls before the IPO price. Any such equity shares purchased are required to be returned to the lenders of these equity shares at the end of the stabilization period. Further, any shortfall in the securities lent by the promoter or large shareholder, is met through issuance of fresh equity shares by the issuer. The lender also receives consideration for lending its equity shares.

D. PUBLICITY AND RESEARCH

Publicity

1. Are there any laws governing publicity in India?

Yes. Publicity in India is subject to restrictions under Chapter VI of the SEBI Regulations.

2. What are the publicity restrictions applicable in India?

The publicity restrictions applicable in India include the following:

- (a) The issuer should not speak about the proposed IPO or the financial information of the issuer for future periods at any point of time.
- (b) All public communications should only contain factual information and should not contain projections, estimates, conjectures or any matter extraneous to the contents of the Draft Red Herring Prospectus, Red Herring Prospectus and Prospectus.

- (c) The issuer should not schedule any interviews with representatives of the international or Indian press or hold investor meeting or participate in the industry conferences without consulting their legal counsel. The issuer should not respond to any inquiries from press without prior consultation with its legal counsel.
- (d) If the issuer has previously scheduled interviews with the press, such interviews may be permitted so long as no information regarding the IPO is discussed.
- (e) All advertisements, other than product advertisements, issued by the issuer from the period of the filing of the Draft Red Herring Prospectus till the listing of the securities have to contain prescribed disclaimers informing the public about the proposed public offering.
- (f) The issuer may answer unsolicited telephone inquiries from the press concerning factual information about its business, consistent with past practice, however, should avoid making any statements concerning the proposed issue or any financial forecasts or valuation opinions.
- (g) The issuer should not participate in the preparation and distribution of research reports or analysis.
- (h) The issuer should ensure that there is no mention of the IPO in any form including on its website.
- (i) All information on the website should be consistent with the disclosure in the Draft Red Herring Prospectus, Red Herring Prospectus and Prospectus.
- (j) The website should not contain financial or operating forecasts or share valuation opinions.

3. What are the periods during which the publicity restrictions become applicable?

Publicity restrictions are applicable to public communications and publicity material, including corporate and product advertisements of the issuer, from the date of the start of IPO process up to the date of allotment of securities being issued or offered in the IPO.

4. What are the various advertisements that are required to be released in relation to the IPO?

- (a) The issuer shall after registering the Red Herring Prospectus (in case of a book built issue) or a Prospectus (in case of a fixed price issue) with the Registrar of Companies, publish an advertisement 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 (the “pre-issue advertisement”). Such pre-issue advertisement shall be in compliance with Section 30 of the Companies Act, 2013 and Regulation 47 and Part A of Schedule XIII of the SEBI Regulations
- (b) In accordance with Regulation 30(2), the issuer shall announce the floor price or price in all newspapers in which the pre-issue advertisement was released. Further, the advertisement shall include the face value of equity shares.
- (c) In accordance with Regulation 48 of the SEBI Regulations, the issuer may issue advertisements for issue opening and issue closing advertisements, which shall be in the formats prescribed under Parts B and C of Schedule XIII of the SEBI Regulations.
- (d) In accordance with Regulation 66 of the SEBI Regulations, the BRLMs shall ensure that an advertisement giving details relating to over-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 or instructions to SCSBs by the Registrar, date of despatch of certificates and date of filing of listing application, is released in the newspapers in which the pre-issue advertisement is released.

*Research***1. Are there any laws applicable to research analysts?**

Yes. Any research and related activities by any research analysts shall be in compliance with the Research Analysts Regulations that came into force from November 30, 2014. The Research Analyst Regulations, the SEBI Regulations and the Companies Act, 2013 primarily govern the preparation and dissemination of research reports by the issuer.

2. To whom are the Research Analysts Regulations applicable?

The restrictions under the Research Analysts Regulations are applicable to:

- (a) the issuer;
- (b) the issuer's promoters, directors, officers, and affiliates, and each of their respective affiliates;
- (c) all persons acting on behalf of the issuer (including any public relations firm); and
- (d) the BRLMs, connected analysts, the Syndicate Members and their respective affiliates and associates.

3. What is the period of black-out ?

The blackout period for distribution of Research Reports typically commences at 12.00 a.m. (Indian Standard Time) on the date one day prior to the filing of the Draft Red Herring Prospectus with SEBI. It needs to be examined whether the issue agreement includes a provision that restricts or prohibits the sale of securities of the issuer after completion of the IPO ("Lock-up Arrangement"). This stipulation refers to any Lock-Up Arrangement or similar agreement entered into by a research analyst or research entity with the issuer, and not with the promoters, principal shareholders or selling shareholders of such issuer. Under the Research Analyst Regulations, the research reports cannot be distributed during the following periods:

- (a) a period of 40 days immediately following the day on which the securities are priced in the IPO;
- (b) in the event that the BRLMs have agreed to participate as an underwriter for the offering, a period of 25 days commencing from the IPO opening date;
- (c) for a period of 15 days prior to the date of execution of the Underwriting Agreement; and
- (d) for a period of 15 days prior to the entering into or after the expiry, termination or waiver of the Lock-up Arrangement.

Accordingly, the blackout period would commence at 12.00 a.m. (Indian Standard Time) on the date one day prior to the filing of the draft red herring prospectus with SEBI and would continue up to 40 days immediately following the day on which the securities are priced in the IPO. We understand that under the securities laws of certain jurisdictions such as the United States, Canada and Japan, such blackout period in respect of the BRLMs, would start on the date of commencement of their mandate for the IPO.

4. What are the restrictions applicable on research reports?

Certain guidelines and procedures in relation to preparation and distributions of research reports are set forth below:

- (a) The BRLMs or their affiliates should not distribute a research report anywhere in the world if anyone responsible for the preparation of such research report has had access to, or is in possession of, material information (whether or not reflected in the research report) that is not known to the public and will not be included in the Draft Red Herring Prospectus, the Red Herring Prospectus and the Prospectus;
- (b) The research report should be, and present itself as, an outsider's view of the issuer and should be independently produced;

- (c) The source of the information shall be clearly acknowledged;
- (d) The research reports should not contain projections, expectations and forecasts. The research reports should also not contain any valuations or recommendations in relation to the securities of the companies; and
- (e) The research reports shall be reviewed by the counsels to the BRLMs prior to their publications.

5. What are the restrictions on dealing with securities?

The restrictions on dealing with securities include:

- (a) The individuals employed by the BRLMs as research analysts or their respective associates should not deal or trade in the securities of the issuer within 30 days before and five days after the date of the research report.
- (b) The individuals employed by the BRLMs as research analysts or their respective associates should not deal or trade, directly or indirectly, in the securities of the issuer in a manner contrary to their respective recommendations.
- (c) The individuals employed by the BRLMs as research analysts or their respective associates should not purchase or receive securities of the issuer, if it undertakes research on, or follows, companies that are principally engaged in same types of business as the issuer.
- (d) The aforesaid restriction shall apply *mutatis mutandis* to the BRLMs, unless they have segregated their respective activities from all other activities and maintained an arm's length relationship between such activities.
- (e) None of the restrictions would apply in the event of any significant news or event concerning the issuer or due to any unanticipated and significant change in the personal financial circumstances of the research analyst, subject to prior written approval in accordance with the internal policies and procedures of the relevant BRLM.

6. Are there similar laws applicable in other jurisdictions?

Yes. Some of these laws applicable to research analysts are extra-territorial in their application.

E. DISCLOSURES IN THE OFFER DOCUMENT

1. What are the disclosure standards applicable in India?

Disclosure standards in India for the Draft Red Herring Prospectus, the Red Herring Prospectus and the Prospectus is substantially at par with other securities markets in the world, with certain additional requirements.

All the disclosures made in the Draft Red Herring Prospectus, the Red Herring Prospectus and the Prospectus must be true, fair and adequate to enable the investors to make a well informed decision as to the investment in the proposed IPO.

Disclosure requirements are governed by the Companies Act, 2013 and the rules made thereunder, the SEBI Regulations and certain other applicable legal requirements.

2. What are the key areas of disclosures in Draft Red Herring Prospectus, the Red Herring Prospectus and the Prospectus?

In addition to the customary key areas such as the business and industry of the issuer, risk factors (internal and external to the issuer), financial statements, management's discussion and analysis of financial condition and results of operation, management, certain peculiar requirements under the SEBI Regulations include:

- (i) Details pertaining to promoters, members or entities forming a part of the promoter group and group companies;
- (ii) Comprehensive details pertaining to the use of proceeds and manner in which such amount has been ascertained;

- (iii) Litigation details relating to the issuer, its subsidiaries, promoters, directors and group companies, in addition to material litigations, and
- (iv) Details relating to government approvals relevant for the business of the issuer.

3. How do you identify promoters, members or entities forming a part of the promoter group and group companies?

Promoters:

Promoters have been defined in a subjective manner in the SEBI regulations: (i) persons in control of the issuer; (ii) key persons involved in planning to bring a public offer of the specified securities; and (iii) persons whose names are written as “promoters” in the offer document. In addition, the Companies Act, also defines promoter as a person (a) who has been named as such in a Prospectus or identified by the issuer in the annual return; or (b) who has control over the affairs of the issuer, or (c) in accordance with whose advice, directions or instructions the board of directors of the issuer is accustomed to act.

However, there are certain exceptions for (i) directors or officers of the issuer, acting in their professional capacity, and for financial institutions, scheduled banks, FPIs (not Category III FPIs), or mutual funds holding equity shares in the issuer.

Promoter Group:

Regulation 2(1)(zb) of the SEBI Regulations defines the promoter group.

In the event the promoter is a body corporate, then the promoter group includes (i) its subsidiary or holding company; (ii) a company in which it holds 10% or more of the equity share capital; (iii) a company which holds 10% or more of its equity share capital; and (iv) any body corporate in which a group of individuals or companies or a combination of both, hold 20% or more of equity share capital of such body

corporate and also holds 20% or more of the equity share capital of the issuer.

If the promoter is an individual then, (i) immediate relatives of the promoter, being any spouse of that person, any parent, brother, sister, child of the person or of the spouse; (ii) any body corporate in which 10% or more of the equity share capital is held by the promoter or his immediate relative or a firm or hindu undivided family in which the promoter is a member or one or more immediate relative of the promoter is a member; (iii) any body corporate in which a body corporate as described in (ii) above holds 10% or more of the equity share capital; (iv) any firm or hindu undivided family, in which the aggregate shareholding of the promoter and immediate relatives of the promoter is 10% or more of the total; and (v) all persons whose shareholding is aggregated for disclosure in the prospectus under “shareholding of the promoter group”.

Group Companies:

Group companies have been defined to include:

- (i) the companies as covered under the applicable accounting standards (being the applicable accounting standards relating to identification of related parties); and
- (ii) other companies considered material by the board of directors of the issuer.

4. What promoter related disclosures are required to be made in Draft Red Herring Prospectus, the Red Herring Prospectus and the Prospectus?

The SEBI Regulations and the Companies Act, 2013 and the rules made thereunder, require various disclosures from the promoters. These include:

- (i) Details of the securities held by them in the company along with the source of funds from which such securities were purchased; and
- (ii) Litigations involving promoters.

Where the promoter is an individual:

A complete profile of the promoters including details of their age, educational qualifications, experience, past positions held, other directorships, special achievements, financial activities, voter identity number and driving license number.

Where the promoter is a company:

- (i) A brief history of the company and the promoters of the company;
- (ii) names of natural persons in control (i.e. holding 15% or more voting rights) or who are on the board of directors of such bodies corporate;
- (iii) Details of change of management of the company, including details of persons who held the controlling interest in the preceding three years and compliance with the SEBI Takeover Regulations;
- (iv) aggregate shareholding of the promoter group and the directors of the promoters in the company;
- (v) the aggregate number of securities purchased or sold by the promoter group, directors of the promoter during the period of six months before filing of the Draft Red Herring Prospectus; and
- (vi) the maximum and minimum price at which purchases and sales as aforesaid have been made along with the relevant date.

5. What group company related disclosures are required to be made in Draft Red Herring Prospectus, the Red Herring Prospectus and the Prospectus?

The following disclosures in relation to group companies are to be included in the Draft Red Herring Prospectus, the Red Herring Prospectus and the Prospectus:

- (i) name and type of organization;
- (ii) brief description of business;
- (iii) nature and extent of interest of the promoter in respect of all the group companies; and

- (iv) certain financial line items of the group companies which fall into the following categories such as (a) the top five group companies (based on turnover); (b) sick industrial companies; (c) companies under winding up; and (d) companies which have a negative net worth.

6. What are the implications of being named as promoter of the issuer?

Once named as a promoter of the issuer in an offer document, such entity (unless depromoterised later) will be considered as a promoter of the issuer for the purposes of the SEBI Takeover Regulations, future disclosures in the annual reports and regulatory filings, and also for further offerings of securities by the issuer.

Under the SEBI Takeover Regulations and the Insider Trading Regulations, promoters are required to make regular disclosures and quarterly filings of their shareholding in the issuer, to the issuer. Such entities may also avail of the exemption for transfer of equity shares inter-se between promoters on the satisfaction of certain conditions.

The SEBI Regulations prescribed a lock-in period for the securities held by the promoter (see C12 and C13). However, inter-se promoter transfers and transfers from promoters or promoter group to persons acquiring control of the issuer in accordance with the SEBI Takeover Regulations are permitted. The lock-in of three years for minimum promoter contribution and one year for the remaining shareholding will however continue in the hands of the new promoters or promoter group.

Promoters may also be held liable for misstatements in the Draft Red Herring Prospectus, the Red Herring Prospectus and the Prospectus.

7. What are the disclosure requirements for the objects for which the IPO is proposed?

The SEBI Regulations require comprehensive details of the utilisation of the funds proposed to be raised from the IPO and the basis on which such amount has been determined (including third party reports in certain cases):

- (i) In the event the objects include repayment of existing debt of the issuer details including (a) the amount outstanding, (b) the purpose for which such debts was availed, and (c) interest rates;
- (ii) In the event the objects include capital expenditure, details including (a) the nature of activity, (b) total cost, and (c) the time lines for utilization of the IPO proceeds and implementation of the project;
- (iii) In the event the objects include funding working capital, detailed assessment of historical and projected working capital utilization and requirements; and
- (iv) If the proceeds are intended to be used for the acquisition of, or further downstream investment in a subsidiary, disclosures in respect of such subsidiary or target company and the manner in which such funds will be infused in the subsidiary or target company.

8. What are the disclosure requirements for directors and key management personnel of the issuer?

In relation to the directors and key management personnel of the issuer, the disclosure requirements include:

- (i) the age, address, occupation, nature of directorship or position held in case of a key management person, term of directorship or date of appointment for key management person, role of key management person in the issuer, director identification number and other directorships for directors, past experience and remuneration for the last financial year;
- (ii) number of securities held by the directors in the issuer and its subsidiaries;
- (iii) changes in directors of the issuer in the last three years; and
- (iv) interests of the directors in the issuer, including any agreements entered into by the issuer with its directors.

9. What are the litigation related disclosures required to be included in Draft Red Herring Prospectus, the Red Herring Prospectus and the Prospectus?

Litigation related disclosure requirements extend to, the issuer, its subsidiaries, its promoters, its directors and its group company and includes:

- (i) All (a) criminal proceedings; (b) actions taken by statutory and regulatory authorities; (b) taxation related matters (in a consolidated manner); and (d) such other litigation that may be considered material in accordance with the materiality policy of the board of directors of the issuer;
- (ii) litigation or legal action pending or taken, directions issued by, any ministry or government department or a statutory authority against the promoters of the issuer during the last five years;
- (iii) details of any inquiry, inspections or investigations initiated or conducted under the Companies Act, 2013 or any previous companies law in the last five years in the case of the issuer and all its subsidiaries and prosecutions filed, whether pending or not, if any;
- (iv) fines imposed or compounding of offences done in the last five years for the issuer and all its subsidiaries; and
- (v) details of acts of material frauds committed against the issuer in the last five years, if any, and if so, the action taken by the issuer.

10. What financial statements are to be included in the Draft Red Herring Prospectus, the Red Herring Prospectus and the Prospectus?

An issuer is required to include audited standalone and consolidated (if relevant) financial statements for each of the five financial years preceding the IPO and the last stub period, if required, such that the financial statements are not more

than six months old from the issue opening date. Under the SEBI Regulations, historical audited accounts are required to be restated in accordance with the accounting policies of the latest period for which financial statements are included in the offer document. Depending on certain net worth criteria, an issuer may be required to include financial statements prepared in accordance with Ind-AS for the current and historical financial years. For example, issuers intending to file an offer document after March 31, 2017 shall be required to prepare and present financial statements in accordance with Ind-AS for three financial years, if its net worth was greater than ₹ 5,000 million, as of March 31, 2016.

In addition to the above, the issuer is also required to include proforma financial statements in the offer document for the last completed accounting year and any 'broken' period in case of any material acquisition or divestment after the date of the latest disclosed annual financial results in the offer document, which has resulted in any company becoming or ceasing to be a direct or indirect subsidiary of the issuer. Materiality is determined on the basis of certain assets and revenues linked threshold (20% of each of the pre-acquisition or pre-divestment total revenue or book value of assets of the issuer).

11. Whether an offer document can be rejected by SEBI on the grounds of inadequate disclosure?

SEBI may reject an offer document where it has reasonable grounds to believe that the adequacy and quality of disclosures are not satisfactory or where an investor may not be able to assess the risks associated with the issue. Such grounds include vague objects, complex business model, unidentified promoters, etc. Companies whose draft offer documents are rejected are not allowed to access capital markets for at least one year.

12. What are the consequences for misstatements and omissions in the Draft Red Herring Prospectus, the Red Herring Prospectus and the Prospectus?

The Companies Act, 2013 provides for civil and criminal liability for misstatements in an offer document.

- (i) Civil liability for (a) the issuer; (b) its directors; (c) its promoters; (d) every person who has authorised issue of the Prospectus; and (e) experts for any inclusion or omission in a Prospectus which misleads an investor and causes damages; and
- (ii) Criminal liability (imprisonment and/or fine) for any misstatement made with an intention to defraud, for every person who authorises the issue of the Prospectus.

13. What role does SEBI play in relation to misstatements?

In accordance with Section 24 of the Companies Act, 2013, SEBI has the power to take any enforcement action against the issuer undertaking an IPO and all other relevant persons, for violations of the Companies Act, 2013 including breach under Sections 34 and 35 of the Companies Act, 2013.

14. What is the liability of the intermediaries associated with an IPO for misstatements and omissions in an offer document?

Under the SEBI Regulations, the lead managers are required to provide a due diligence certificate to SEBI with respect to the contents of the offer document and could therefore be held liable by SEBI. The SEBI Regulations specify that their liability shall continue even after the IPO process is complete. Separately, all intermediaries can be held liable under the applicable SEBI regulations under which they are registered with SEBI.

15. Can private action be initiated for misstatements?

Yes. Any person or group of persons which have sustained any loss or damage due to misstatements in a prospectus or fraudulent conduct may approach any court with appropriate jurisdiction in order to claim compensation for such loss or damage.

16. Are there any past instances of any action taken by the regulator for misstatements or omissions?

Yes. There have been past instances of action taken by the regulator for misstatements and omissions in the Draft Red Herring Prospectus, the Red Herring Prospectus and the Prospectus. For example, a company, which is one of the leading players in its industry and some of its directors were restrained by SEBI from accessing the securities market and prohibited them from dealing in securities for the period of three years on the ground of active and deliberate suppression of material information in its Red Herring Prospectus and Prospectus so as to mislead and defraud the investors.

F. CORPORATE ACTIONS

1. What are the corporate and third party approvals required for an IPO?

Please see A(10) for the corporate approvals required.

In certain cases, approvals from RBI and the Foreign Investment Promotion Board may be required for issue of equity shares to non-residents. Further, approval of the sector regulator may also be required such as Insurance Regulatory and Development Authority of India, for undertaking an IPO in case of an insurance company.

The Draft Red Herring Prospectus of the issuer is required to be filed with SEBI for the observations and the approval of the Stock Exchanges, in two stages – in principle and final, is required for the listing of the equity shares.

Additionally, the issuer may be required to obtain approvals from third parties, if any, under its contractual arrangements such as financing documents and shareholder and joint venture agreements.

2. Does an issuer need to comply with the corporate governance requirements applicable to a listed company?

Yes. The issuer should be in compliance with the corporate governance requirements contained in the Listing Regulations at the time of filing of the Draft Red Herring Prospectus with SEBI and the stock exchanges.

Accordingly, an issuer shall be required to:

- (i) appoint independent directors;
- (ii) constitute various committees including the audit committee, the risk management committee, and the corporate social responsibility committee; and
- (iii) appoint independent directors on the board of its 'material subsidiaries', and formulate relevant policies as prescribed under the Listing Regulations.

3. What should be the composition of the board of directors of an issuer?

The board of directors should have a combination of executive and non-executive directors with not less than 50% of the board of directors comprising non-executive directors.

- (i) If the chairman of the board is a non-executive director, at least one third of the board is required to be independent; and
- (ii) If the chairman is an executive director, at least half the board should comprise of independent directors.

However, where a non-executive chairman is a promoter of the issuer or is related to any promoter or person occupying management position on the board of directors or at a level below the board, at least one half of the board of directors of the issuer should be independent.

Additionally, the issuer is required to appoint one woman director on its board of directors.

4. What are the constitution requirements for the committees of the board?

The constitution requirement for each of the committees of the board is set out below:

- (i) *The Audit Committee:* It shall have a minimum of three directors of whom two-thirds, are required to be independent directors. The chairperson of the Audit Committee is required to be an independent director.
- (ii) *The Nomination and Remuneration Committee:* The Nomination and Remuneration Committee shall comprise at least three directors, all of whom shall be non-executive directors and at least half of whom shall be independent. The chairman of the Nomination and Remuneration Committee shall be an independent director.
- (iii) *The Stakeholders' Relationship Committee:* The chairman of the Stakeholders' Relationship Committee shall be a non-executive director.
- (iv) *The Risk Management Committee (in certain cases):* The majority of members of the Risk Management Committee shall consist of members of the board of directors.

5. Is the issuer required to amend its Memorandum and Articles of Association?

The issuer may be required to amend its memorandum of association for suitable changes to its capital clause. It also may need to amend its articles of association in accordance with the Companies Act, 2013 and the rules made thereunder and the articles mandated by the stock exchanges.

The issuer may also be required to amend or delete special, management or ownership rights available to one or more shareholder such as information rights or veto rights under the provisions of the articles of association prior to listing.

6. Is an issuer permitted to have outstanding convertible securities prior to filing of the Draft Red Herring Prospectus?

An issuer cannot undertake an IPO if there are any outstanding convertible securities or any other rights which would entitle a person with any option to receive equity shares of the issuer, except for (i) outstanding options granted to employees under employee stock option scheme; or (ii) fully paid-up outstanding convertible if they are required to be converted on or before the date of filing of the Red Herring Prospectus.

G. CERTAIN POST-LISTING CONSIDERATIONS

1. Whether the disclosures made in the offer document are required to be updated after listing?

In terms of the Listing Regulations, a listed company is required to submit to the stock exchanges an annual information memorandum in the manner to be specified by SEBI which is currently awaited.

2. What are the reporting requirements under the Listing Regulations?

A listed company is required to report its quarterly shareholding pattern and quarterly and annual financial statements to the stock exchanges.

Under Regulation 33 of the Listing Regulations:

- (i) A listed entity is required to submit quarterly and year-to-date stand alone financial results to the stock exchanges within 45 days of the end of each quarter except the last.

In case the listed entity has subsidiaries, the entity may also submit quarterly or year-to-date consolidated financial results or (subject to intimation to the stock

exchanges), at the beginning of the Financial Year about such additional submission of the same.

- (ii) A listed entity is also required to disclose its annual audited standalone and consolidated financial statement within sixty days of the end of the financial year.

Additionally, the Listing Regulations require listed companies to disclose: (i) 'deemed material' events (ii) mandatory disclosures; and (iii) other disclosures considered material by the board of directors in accordance with a materiality policy.

3. What are the regulations governing insider trading?

All listed companies are required to comply with the Securities and Exchange Board of India (Prohibition of Insider Trading) Regulations, 2015 with respect to treatment of price sensitive information. Accordingly, each listed company is also required to formulate the following:

- (i) Code of Conduct for Regulating, Monitoring and Reporting of Trading by Insiders; and
- (ii) Code of Practices and Procedures for Fair Disclosure of Unpublished Price Sensitive Information.

4. What are the provisions applicable for variation of the objects of the IPO?

If an issuer intends to change the objects of the IPO from what was disclosed in the Prospectus:

- (i) It will need to obtain an approval of the shareholders by way of a special resolution through a postal ballot, for such change; and
- (ii) The promoters and controlling shareholders of the issuer will be required to provide an exit opportunity to the dissenting shareholders in accordance with the regulations prescribed by SEBI.

III. OTHER OFFERINGS

A. QUALIFIED INSTITUTIONS PLACEMENT

1. What is a qualified institutions placement?

A qualified institutions placement (“QIP”) is the issue and allotment of equity shares or non-convertible debt instruments along with warrants (convertible securities other than warrants) by a listed company to QIBs on a private placement basis in accordance with the SEBI Regulations and the Companies Act.

2. What are the eligibility conditions to undertake a QIP?

The eligibility conditions for undertaking a QIP include:

- (a) The equity shares of the issuer of the same class as are being offered through the QIP should have been listed on a recognised stock exchange for at least one year preceding the date of issuance of notice to shareholders for a special resolution authorising the QIP;
- (b) The QIP should be approved by the shareholders of the issuer through a special resolution;
- (c) The issuer should be compliant with the minimum public shareholding requirement specified in the SCRR;
- (d) The aggregate of the proposed QIP and all previous QIPs made by the issuer in the same financial year cannot exceed five times its net worth (as defined in the SEBI Regulations) in accordance with its audited balance sheet of the previous financial year;
- (e) The issuer should have completed allotments with respect to any offer or invitation previously made by the issuer or such previous offer or invitation should have been withdrawn or abandoned; and
- (f) Multiple QIPs by an issuer should be separated by a six month interval.

3. How many investors can participate in a QIP?

Not more than 200 persons, in aggregate, can participate in a private placement (including through a QIP) taken together with other private placements in the same financial year. This limit, however, excludes QIBs and therefore, there is no limit on the number of QIBs that can participate in a QIP.

4. Are there any restrictions on allotment of securities offered in a QIP?

Only QIBs as defined under the SEBI Regulations are eligible to participate in a QIP. Participation by QIBs is subject to the following conditions:

- (a) At least 10% of the securities offered in the QIP are required to be allotted to mutual funds. However, if any part of this remains unsubscribed, it can be allotted to other QIBs;
- (b) No allotment is permitted, either directly or indirectly, to promoters or persons related to promoters of the issuer; and
- (c) The minimum number of allottees for each placement of the securities offered under a QIP shall not be less than (i) two, where the QIP size is less than or equal to ₹ 2,500 million; or (ii) five, where the QIP size is greater than ₹ 2,500 million. However, no single QIB can be allotted more than 50% of a QIP and QIBs belonging to the same group or who are under the same control shall be deemed to be a single allottee.

5. What are the requirements for pricing of securities offered through QIP?

QIPs are required to be priced above a floor price fixed with reference to the date on which the board of directors of the issuer decides to open the proposed issue (“**Relevant Date**”). Such floor price is the average of the weekly high and low of the closing prices of the related equity shares quoted on the

stock exchange on which the issuer's equity shares are traded during the two weeks preceding the Relevant Date.

The issuer is also allowed to offer a discount of 5% on the price so calculated as per the aforesaid method subject to a prior approval from shareholders.

In the case of issue of convertible instruments, the issuer has the option of fixing the Relevant Date as the date of the meeting of the board of directors or the date on which the holder of the securities which are convertible into equity shares, becomes entitled to apply for the equity shares. The price for convertible instruments may be adjusted in respect of certain specified corporate events, including, bonus or rights issues, consolidation or splitting of existing shares and reclassification of the equity share capital.

6. What are the disclosure requirements for QIPs?

Unlike an IPO, the SEBI Regulations prescribe only indicative disclosure requirements for QIPs and placement documents drafted are typically prepared in accordance with customary market standards and Section 42 of the Companies Act, 2013 read with the Companies (Prospectus of Securities) Rules, 2014 which prescribe certain additional disclosure requirements.

7. When is an issuer required to notify the stock exchanges about a decision to proceed with QIP?

The Listing Regulations requires prior intimation to be given by the issuer to the stock exchanges about the meeting of its board of directors for considering the QIP and for determination of the issue price.

B. RIGHTS ISSUES

1. What is a rights issue?

A rights issue is an offer of equity shares or other securities by a listed company to its shareholders as on a specified date, i.e. the record date fixed for this purpose. Rights issue is a method by which an issuer raises capital by offering its equity shares or other securities to its existing eligible shareholders.

2. What is a fast track issue and who can undertake a fast track rights issue?

An issuer which complies with the criteria stipulated under the SEBI Regulations can undertake an issue under the fast track mode. In fast track issues, the Draft Letter of Offer is not required to be filed with SEBI and an issuer can directly file the Letter of Offer with the Registrar of Companies (in case of book built IPOs) and the Letter of Offer in case of rights issues. A rights issue of securities on a fast track basis can be undertaken if the following conditions are satisfied:

- (a) the equity shares of the issuer have been listed on any stock exchange having nationwide terminals for at least three years immediately preceding the reference date (to be determined in accordance with the SEBI Regulations);
- (b) the average market capitalisation of public shareholding of the issuer is at least ₹ 2,500 million in case of rights issue;
- (c) the annualized 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 percent of the weighted average number of equity shares listed during the said six months' period;
- (d) the issuer has redressed at least 95% of the total investor grievances or complaints received until the end of the quarter immediately preceding the month of the reference date;

- (e) the issuer has complied with the listing agreement for a period of at least three years immediately preceding the reference date. However, this condition is deemed to be complied if adequate disclosures about any non-compliance relating to composition of board of directors in any quarter in such three years is made in the offer documents and the issuer is compliant at the time of filing of the offer documents;
- (f) the impact of auditors' qualifications, if any, on the audited accounts of the issuer in respect of the financial years for which such accounts are disclosed in the offer document does not exceed 5% of the net profit or loss after tax of the issuer for the respective years;
- (g) no prosecution proceedings have been initiated, or show cause notices issued, by SEBI are pending against the issuer or its promoters or whole time directors as on the reference date; and
- (h) the entire shareholding of the promoter group is held in dematerialised form as on the reference date.

3. In what cases is an issuer eligible to make limited disclosures in the offer document?

If the issuer satisfies the following conditions specified in the SEBI Regulations, it is eligible to provide limited disclosures in its Draft Letter of Offer and Letter of Offer:

- (i) the issuer has been filing periodic reports, statements and information in compliance with the listing agreement for the three years immediately preceding the date of filing of the Draft Letter of Offer with SEBI;
- (ii) the reports, statements and information referred to in sub-clause (i) above are available on the website of the BSE and the NSE or on a common e-filing platform specified by SEBI;
- (iii) the issuer has an investor grievance-handling mechanism as prescribed and appropriate delegation of power by the board of directors of the issuer as regards share transfer;

- (iv) the issuer's management has not undergone any change pursuant to acquisition of control in accordance with the provisions of the SEBI Takeover Regulations; and
- (v) the equity shares of the company have not been listed consequent to relaxation granted by SEBI under the SCRR for listing of its equity shares pursuant to a scheme sanctioned by a high court under the Companies Act.

4. What are the requirements for pricing of equity shares offered through a rights issue?

There are no specific pricing requirements for pricing of equity shares offered through a rights issue and the board of directors of the issuer can decide the price of the equity shares offered through a rights issue.

IV. OFFER FOR SALE BY EXISTING SHAREHOLDERS

1. Can the existing shareholders of an issuer sell their equity shares through an IPO?

Yes, through an 'offer for sale' to the public for subscription through an offer document. Under the Companies Act, any document by which the offer for sale by the existing shareholders of an issuer is made to the public, shall be deemed to be a Prospectus issued by the issuer. An offer for sale can also be undertaken in combination with fresh issue of equity shares by the issuer.

2. What are the eligibility criteria for a selling shareholder to participate in an offer for sale?

In order to be eligible to participate in an offer for sale, selling shareholders should have held the securities of the issuer which are offered for sale for at least one year prior to filing of the Draft Red Herring Prospectus with SEBI. This requirement of holding securities for a minimum period of one year does not apply in the following cases:

- (a) in case of an offer for sale of securities of a government company or statutory authority or corporation or any special purpose vehicle set up and controlled by such entities engaged in the infrastructure sector;
- (b) if the securities offered for sale were acquired pursuant to any scheme approved by a high court, in lieu of business and invested capital which had been in existence for a period of more than one year prior to such approval; and
- (c) if the securities 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 Red Herring Prospectus, subject to certain conditions.

3. Who bears the expenses of the offer for sale?

Section 28 of the Companies Act requires that all expenses in relation to the offer for sale are to be borne by the selling shareholders. The selling shareholders are required to collectively authorise the issuer to take all actions in respect for offer for sale and also reimburse all expenses incurred by the issuer on the offer for sale. In the event that an IPO is a combination of fresh issue and an offer of sale of equity shares, the expenses shall have to be shared between the issuer and the selling shareholder in the proportion of the equity shares being offered by the respective parties.

4. What are the various transaction documents that a selling shareholder is a party to?

In addition to the Draft Red Herring Prospectus, the Red Herring Prospectus and the Prospectus, that a selling shareholder is required to sign, other relevant selling shareholder related transaction documents include: (i) corporate authorizations for the offer for sale; (ii) various transaction agreements such as offer agreement, registrar agreement, cash escrow agreement, syndicate agreement, share escrow agreement and underwriting agreement; and (iii) additional due diligence certificates and documents required by the regulatory authorities or the BRLMs.

5. What is the extent of liabilities of the selling shareholders?

Selling shareholders may be held liable for misstatements and omissions in the Prospectus and such other liabilities as they assume to the other intermediaries in the transaction documents.

V. LISTING OF NCDS IN INDIA

1. What are the different routes available for listing of non-convertible debentures (“NCDs”) and what are the applicable laws and regulations?

The listing of NCDs is governed by the SEBI Debt Regulations. The SEBI Debt Regulations apply to public issues of NCDs which are mandatorily required to be listed and private placement of NCDs which are sought to be listed on recognised stock exchanges in India. Issuance of NCDs is also governed by the Companies Act and the rules thereunder, more specifically the PAS Rules and the Debenture Rules.

2. What are the corporate approvals required for an issue of listed NCDs in India?

Private Placement

A private placement of NCDs requires the authorisation of the board of directors of the company to undertake an issue of NCDs. Further, the company is required to obtain the approval of the shareholders of the issuer which may be in the form of an omnibus resolution for a year. Further, resolutions of the shareholders are required in relation to the borrowing powers of the board of directors and in relation to disposal of undertakings in the event the NCDs are secured.

Public Issue

A public issue of NCDs requires the same corporate approvals except for the approval of the shareholders for issuance though the other two shareholders resolutions are required.

3. What are the disclosure requirements for the offer document?

Private Placement

For a private placement of NCDs, the offer document i.e. the disclosure document is required to contain disclosures specified in Schedule 1 of the SEBI Debt Regulations and the form of private placement offer letter prescribed in the PAS Rules.

Public Issue

For a public issue of NCDs, the offer document i.e. the prospectus is also required to contain disclosures specified in Schedule 1 of the SEBI Debt Regulations along with those specified under the chapter on public issues in the Companies Act.

4. What are the various intermediaries and their roles in such issuance?

Private Placement

(a) Debenture Trustee

The SEBI Debt Regulations and the Companies Act mandate the issuer to appoint a debenture trustee for the issue. The debenture trustee is the entity that acts on behalf and for the benefit of the NCD holders. Only entities that are eligible under the SEBI (Debenture Trustees) Regulations, 1993 and registered with SEBI are permitted to be appointed for the purposes of a listed issuance.

(b) Registrar and Transfer Agent

The role of a registrar and transfer agent involves processing the investment and transfer of NCDs, receiving interest and principal payments, maintaining a record of the transactions and co-ordinating between the depositories, regulators, stock exchanges, the issuer, NCD holder and the lead merchant bankers to complete a transaction.

(c) Arranger

An Arranger is the merchant banker, broker or underwriter that facilitates and leads a group of investors in a private placement of NCD. It assigns parts of the issue to other arrangers or investors for placement and usually takes the largest part itself.

(d) Depository

Depositories are entities that facilitate dematerialisation of securities and are accountable for the safe-keeping of the NCDs. The issuer is mandatorily required to open a demat account with both the depositories (i.e. NSDL and CDSL) to enable investors to invest in the NCDs.

(e) Credit Rating Agency

These are agencies that assign credit ratings to a company, which is a mandatory requirement for a listed issue of NCDs. The credit rating agencies rate a company's ability to pay back the debt owed pursuant to the NCDs and takes into account the probability of a default scenario arising based on the business profile of the company.

(f) Electronic Book Provider

For issuance of NCDs with an issue size of ₹ 5000 million or more (inclusive of green shoe option if any), the bids have to be entered using the electronic book mechanism process. BSE and NSE have been recognized as electronic book providers (the "EBPs"). The EBPs are required to provide an electronic secured bidding platform to all eligible participants for entering their bids.

Public Issue

In addition to the above intermediaries, the following persons are also involved in a public issue:

(a) Lead Merchant Banker

The issuer is required to appoint at least one or more merchant bankers, registered under the SEBI MB Regulations, and at least one of them shall be the lead

merchant banker. A company can only undertake a public issue if the draft prospectus is filed with the designated stock exchange through the lead merchant banker which is also required to be displayed on their website. The lead merchant banker must also ensure that all public comments received on the draft prospectus are addressed. The lead merchant bankers, are expected to exercise due diligence and are required to file a due diligence certificate prior to the filing of the final prospectus with the registrar of companies.

(b) Syndicate members / Brokers

Syndicate members or brokers procure investors and collect application forms from applicants during the issue period.

(c) Escrow Banks

Escrow banks act as the escrow agents in relation to the application money received as part of the public issue from the investors. The issuer opens the escrow accounts with escrow collection banks for collecting the application money. An escrow collection bank also handles refunds of excess amount. An escrow account is the account from which application money is either refunded to the applicants, or is deposited in the issuer's account

(d) Statutory auditors

They audit and deliver a report on the issuer's financial statements for inclusion in the draft prospectus and the prospectus. The report includes audited financial statements prepared in accordance with the Companies Act and applicable accounting standards. The auditor is also required to prepare a statement of tax benefits applicable to the bond holders. Further, market practice also requires the auditor to deliver "comfort letters" to the lead merchant bankers at various stages in the issue process, which relates to certain confirmations on the financial data included in the draft prospectus and the prospectus.

5. What are the various transaction documents?

Private Placement

(a) Disclosure Document

As stated above, the disclosure document issued by the issuer is required to contain disclosures specified in Schedule 1 of the SEBI Debt Regulations and the form of private placement offer letter prescribed in the PAS Rules, which *inter alia* includes all the material information regarding the issuer being, its capital structure, incorporation details, business overview and history, financial information, terms of the NCDs, risk factors, use of proceeds, details of the guarantor (if any), credit ratings, debenture trustee appointment, consents, terms and conditions of the NCDs, security package, details of the existing borrowings and litigations.

(b) Debenture Trustee Agreement

The issuer appoints the debenture trustee for the benefit of the NCD holders pursuant to a debenture trustee agreement. This agreement needs to be executed prior to the closure of the offer. It also accords for consent of the debenture trustee to act as the trustee for the benefit of the NCD holders for the purposes of the issue.

(c) Debenture Trust Deed

The debenture trust deed needs to be executed within three months from the closing of the issue and it needs to be as near to as possible to the format set out in the Debenture Rules. The debenture trust deed is the document that creates the trust and sets out the terms and conditions applicable to the issuer of NCDs. It specifically sets out the covenants which the issuer is required to comply with and it also sets out the mechanism for managing, collecting and distributing the trust property inter-se the NCD holders as well as the conditions with respect to safeguarding their interests. The parties to this agreement are the debenture trustee and the company.

(d) Debt Listing Agreement

The issuer is required to execute a debt listing agreement with the stock exchange where the NCDs are proposed to be listed. The format of the debt listing agreement is prescribed by SEBI and *inter alia* prescribes the requirement of on-going disclosures by the company for continuous listing of debt securities and other investor protection related disclosures.

(e) Credit Rating Letter

The issuer is also required to obtain a credit rating from at least one SEBI registered credit rating agency. The requirement extends to not only obtaining credit rating but also disclosure of the same, along with the rationale for the credit rating.

(f) Depository Agreement

A tripartite depository agreement is required to be executed with each of the SEBI registered depositories (i.e. NSDL and CDSL) for dematerialisation of the NCDs.

(g) Registrar Agreement / letter of appointment

The issuer is required to appoint a registrar to the issue for, *inter alia*, monitoring and collecting amounts for the issuance and allotting the NCDs.

(h) Security Documents

Depending on the security package for the redemption of the NCDs, these will *inter alia* includes the deed of hypothecation, share pledge agreements and mortgage documents.

Public Issue

In addition to the documents set out above, the following documents are required for a public issue:

(a) Prospectus

As stated above, the prospectus issued by the issuer is required to contain disclosures specified in Schedule 1 of the SEBI Debt Regulations and the Companies Act, which *inter alia* includes disclosures on financial

information, risk factors, statement of tax benefits, industry overview, business and history of the company, details of the existing borrowings and litigations, terms and conditions of the NCDs, use of proceeds and security package. It may be a standalone prospectus or it may be in the form of a shelf and tranche document.

(b) Escrow Agreement

The Escrow Agreement sets out the arrangement for collection of application amount from investors. This agreement is entered into between the issuer, the merchant bankers, the syndicate members, the escrow banks and the Registrar. This agreement also provides for the arrangement by which the funds in the escrow accounts are transferred to the refund account or the company's account.

(c) Issue Agreement

The Issue Agreement is executed among the merchant bankers and the issuer prior to the filing of the draft prospectus with the designated stock exchange. It sets out, amongst other things, the roles and responsibilities of the merchant bankers, representations and warranties from the issuer, details of the indemnity provided by the issuer to the merchant bankers and provisions for termination of the merchant bankers' engagement.

(d) Syndicate Agreement

The Syndicate Agreement sets out the role and obligations between the merchant bankers and the brokers.

6. What is the process for listing?

Private Placement

- Obtaining the corporate approvals for issuance and NCDs, borrowing limits and creation of security (if applicable)
- Appointment of the intermediaries and finalisation of the mandate letters and term sheets

- Finalisation of the disclosure document prepared according to the SEBI Debt Regulations and the PAS Rules
- Obtaining the in-principle approval from the stock exchange on which the NCDs are proposed to be listed
- Signing of the tripartite agreements with the depositories and obtaining of the ISINs (i.e. opening of the demat accounts)
- Signing of the debt listing agreement with the stock exchange on which the NCDs are proposed to be listed
- The disclosure document accompanied by an application form serially numbered to be addressed to the persons to whom the NCDs are proposed to be offered
- Receipt of the application forms from the proposed investors
- Payment of the subscription money by the investors through cheque, demand draft or other banking channels but not by cash
- Credit of the NCDs into the demat accounts of the investors
- Obtaining the final listing approval from the stock exchange

Public Issue

- Obtaining the corporate approvals for issuance and NCDs, borrowing limits and creation of security (if applicable)
- Appointment of the intermediaries
- Commencement of the due diligence exercise, simultaneously with commencement of drafting of the Draft Prospectus
- Execution of the issue agreement
- Finalization and filing of the draft prospectus with the designated stock exchange through the lead merchant banker

- The draft prospectus is posted on the website of the designated stock exchange for seeking public comments for a period of seven working days
- Draft prospectus also displayed on the website of the company, merchant bankers
- Filing of the draft prospectus with SEBI for record purposes
- Filing of applications to the stock exchanges for the in-principle listing approval
- Signing of the debt listing agreement with the stock exchange on which the NCDs are proposed to be listed
- The lead merchant banker shall ensure all comments received on the draft prospectus are suitably addressed
- Execution of escrow agreement and syndicate agreement
- Filing of the prospectus with SEBI for record purposes along with the due diligence certificate from lead merchant bankers
- Filing of the prospectus with Registrar of Companies and obtaining the Registrar of Companies approval
- Filing of due diligence certificate by debenture trustee prior to the opening of the public issue
- Issue opens and closes
- Receipt of the application forms from the proposed investors
- The issuer allots the NCDs in consultation with the designated stock exchange
- Filing of final listing application to stock exchanges.
- Stock exchanges provide final listing and trading approval

VI. REAL ESTATE INVESTMENT TRUSTS

1. What are REITs and what are the laws applicable to REITs?

REITs are trusts formed under the Indian Trusts Act, 1882 and registered under the Registration Act, 1908 investing in real estate properties within the framework of the REIT Regulations. A REIT is required to be registered with SEBI. Certain other laws which are applicable to REITs include Indian Trusts Act, 1882, Registration Act, 1908, Foreign Exchange Management Act, 1999, and Foreign Exchange Management (Transfer or Issue of Security by a Person Resident outside India) Regulations, 2000 and the Income Tax Act, 1961.

2. Who are the fundamental parties required for the establishment and operation of a REIT?

Sponsors, managers and trustees are the parties that are fundamentally essential for establishing and operating a REIT. A sponsor is any person who sets up the REIT and appoints a trustee for REIT. A manager may be a company or an LLP or a body corporate incorporated in India which manages the assets and investments of the REIT and undertakes operational activities of the REIT. A trustee is a SEBI registered entity who holds the REITs assets in trust for the benefit of the unit holders. Additionally, the REIT would have to engage various professional advisors to ensure compliance with REIT Regulations, such as auditors, valuers and merchant banks.

3. What are the eligibility criteria for a sponsor, manager and trustee?

The REIT Regulations prescribe certain eligibility criteria for sponsor, manager and trustee. Sponsors have a minimum individual net worth of ₹ 200 million and a collective net-worth of ₹ 1,000 million.

A manager should have a minimum individual net worth of ₹100 million, if the manager is a body corporate, or a company or net tangible assets of at least ₹100 million, in case the manager is a limited liability partnership. Further, a manager should have at least five years experience in fund management or advisory services or property management in the real estate industry or in development of real estate. The manager should have at least two employees who each have at least five years experience in fund management or advisory services or property management in the real estate industry or development of real estate. In addition to the above, a minimum of 50% of the directors (for companies) or members of the governing board (for LLPs) of the manager should be independent. A trustee should be registered as a debenture trustee under the Debenture Trustee Regulations and not be an associate of a sponsor or a manager.

4. What are the requirements relating to offer and listing of units in REITs?

REITs are allowed to make initial offer of units only by way of a public issue. Some of the conditions prescribed for REITs for the purposes of undertaking an IPO include having assets worth ₹ 5,000 million, and minimum offer size of ₹ 2,500 million, in addition to the minimum dilution requirements prescribed below. REITs are allowed to undertake further issuances by way of follow-on offer, preferential allotment, qualified institutions placement, rights issue, bonus issue and offer for sale. However, operational guidelines for such further issue have not been prescribed under the REIT Regulations.

5. What are the disclosure requirements applicable to IPO of REITs?

Similar to the disclosure requirements for the IPO of equity shares, the REIT Regulations provide for detailed disclosure requirements in the offer documents. However, unlike the IPO regime for companies, the REIT Regulations require offer documents to include forward looking disclosure such as properties intended to be acquired by the REIT, estimated

monthly market rental, expected completion of under-construction projects and projections of income over next three years. The process of filing offer documents and undertaking an IPO of REITs is similar to an IPO of equity shares.

6. What are the investment restrictions applicable to REITs?

The REIT Regulations prescribes certain investment restrictions applicable on REITs (through holdcos or special purpose vehicles or both) such as: (i) a minimum 80% of value of the REIT assets should be invested in completed and rent generating properties; (ii) not more than 20% of value of the REIT assets should be invested avenues in REIT assets including investments in (i) under-construction projects. (ii) completed and not rent generating properties, in accordance with REIT Regulations.

VII. INFRASTRUCTURE INVESTMENT TRUSTS

1. What are InvITs and what are the laws applicable to InvITs?

Similar to REITs, InvITs are trusts formed under the Indian Trusts Act, 1882 and registered under the Registration Act, 1908 for investing in infrastructure projects within the framework provided under the InvIT Regulations. An InvIT is required to be registered with SEBI.

Certain other laws applicable to InvITs include Indian Trusts Act, 1882, Registration Act, 1908 and Income-Tax Act, 1961.

2. Who are the fundamental parties required for the establishment and operation of an InvIT?

Sponsor, investment manager, project manager and trustee are the parties fundamentally essential for establishing and operating an InvIT, each with its distinct roles and responsibilities. A sponsor is any company or LLP or body corporate which sets up the InvIT and in case of public-private partnership projects, a sponsor can be the infrastructure developer or a special purpose vehicle holding a concession agreement. An investment manager is a company or an LLP or a body corporate which manages assets and investments of the InvIT and undertakes activities of the InvIT. A trustee is a person who holds InvIT assets in trust for the benefit of the unitholders. A project manager is a person responsible for achieving execution of a project and in case of PPP projects, a project manager can be an entity responsible for execution projects in accordance with the concession agreement. Additionally, an InvIT would have to engage various professional advisors to ensure compliance with InvIT Regulations, such as auditors, valuers and merchant banks.

3. What are the requirements of offer and listing of units in InvITs?

InvITs are eligible to make an offer and list their units in the event the asset size is at least ₹5,000 million and the offer size is at least ₹2,500 million. Such an offering can be made either through a private placement or a public offer.

4. What are the investment restrictions applicable to InvITs?

The InvITs Regulations prescribes certain investment restrictions applicable on InvITs which propose to list through a public offer:

- (a) Minimum 80% of value of the InvITs' assets shall be invested in completed and revenue generating properties; and
- (b) Maximum 20% of value of the InvITs' assets shall be invested in other eligible investments including investment in under-construction projects which shall not exceed 10% of the value of the assets of the InvITs.

In respect of a privately placed InvIT, minimum 80% of the value of the InvIT assets shall be invested in eligible infrastructure projects, either directly or through holdco(s) or through SPVs. Further, if a privately placed InvIT invests or proposes to invest not less than 80% of the value of the InvIT assets, the minimum investment from an investor shall be ₹250 million.

5. What are the requirements of public issue and private placement in InvITs?

- (a) **Public issue:** For undertaking public issues, InvITs shall comply with the investment restrictions stipulated above. Further, units proposed to be offered to the public shall not be less than 25% of the total of the outstanding units of the InvIT. The minimum subscription shall be 75% of the issue size and there shall be at least 20 subscribers.

- (b) *Private placement:* In case investment by InvITs in under-construction projects exceeds 10% of the value of the InvITs assets, such issues shall be required to be undertaken only by way of private placement. For a private placement of units, the minimum investment from an investor shall be ₹ 10 million and there should be a minimum of five investors and not more than 1,000 investors.

6. What are the disclosure requirements applicable to IPO of InvITs?

The InvIT Regulations prescribe limited disclosures in relation to an IPO of InvITs as compared to the disclosure requirements prescribed under the SEBI Regulations for IPO of a company. Such limited disclosures include disclosures of material litigations and regulatory actions, disclosure of summary financial statements and projections for three years.

However, unlike the IPO regime for companies, the InvIT Regulations require offer documents to include forward looking disclosures such as projections of revenue and operating cash flows by the InvIT over the next three years, details of the holdcos or the project SPV(s) through which the projects are held or proposed to be held and expected completion of the under-construction projects. The Process of filing of offer documents and undertaking an IPO on InvITs is similar to an IPO of equity shares.

VIII. GLOSSARY

Term	Definition
AIF	Alternative Investment Fund as defined in and registered with SEBI under the Securities and Exchange Board of India (Alternative Investments Funds) Regulations, 2012
Allotment	Issue or transfer, as the context requires, of equity shares pursuant to the Issue to the successful Bidders as the context requires
Allottee	The successful Bidder to whom the equity shares are being/ have been issued or transferred
Anchor Investor	An anchor investor is a QIB who makes an application for a value more than ₹ 100 million in a book built IPO
Application Supported by Blocked Amount/ASBA	The application for subscribing to an issue containing an authorisation to block the application money in a bank account
ASBA Bidder/ Investor	An investor who intends to apply through the ASBA process
ASBA Public Issue Account	Account opened with the Bankers to the Issue by an issuer to receive monies transferred by the SCSBs from the bank accounts of the ASBA Bidders
Banker to an Issue	A scheduled bank carrying on all or any of the issue related activities namely acceptance of application and application monies; acceptance of allotment or call monies; refund of application monies; and payment of dividend or interest warrants
Basis of Allotment	An allotment pattern of an issue among different categories of applicant
Bid	An indication to make an offer made during the Bidding Period by a prospective investor to subscribe to equity shares at a price within the Price Band, including all revisions and modifications thereto

Bid Amount	The highest value of the optional Bids indicated in the Bid cum Application Form and payable by the Bidder on submission of the Bid
Bid Closing Date/ Issue Closing Date	The date after which the members of the Syndicate shall not accept any Bids for the Issue
Bid cum Application Form	The form in terms of which the Bidder shall make an offer to subscribe to equity shares and which shall be considered as the application for allotment/transfer of the equity shares in terms of the Red Herring Prospectus
Bid Opening Date/ Issue Opening Date	The date on which the members of the Syndicate shall start accepting Bids for the Issue
Bidder	Any prospective investor who makes a Bid pursuant to the terms of the Red Herring Prospectus
Bid Period / Issue Period	The period between the Issue Opening Date and the Issue Closing Date inclusive of both days and during which prospective Bidders can submit their Bids
Book Building Process	A process undertaken by which a demand for the securities proposed to be issued by a corporate body is elicited and built up and the price for such securities is assessed for the determination of the quantum of such securities to be issued by means of a notice, circular, advertisement, document or information memoranda or offer document
BRLMs	Book running lead managers, associated with the IPO and responsible for due diligence and other IPO related activities
BSE	BSE Limited
Confirmation of Allotment Note/ CAN	The note or advice or intimation of allotment of equity shares sent to the Bidders who have been allocated equity shares in the book building process

Cap Price	The high end of the Price Band, above which the Issue Price shall not be finalised and above which no Bids shall be accepted
Collecting Depository Participant or CDP	A depository participant as defined under the Depositories Act, 1996, registered with SEBI and who is eligible to procure Bids at the Designated CDP Locations in terms of circular no. CIR / CFD/ POLICYCELL / 11 / 2015 dated November 10, 2015 issued by SEBI
Companies Act/ the Act	The Companies Act, 1956 and / or Companies Act, 2013, as applicable
Companies Act, 1956	Companies Act, 1956 (without reference to the provisions thereof that have ceased to have effect upon notification of the sections of the Companies Act, 2013) along with the relevant rules made thereunder
Companies Act, 2013	Companies Act, 2013, to the extent in force pursuant to the notification of sections of the Companies Act, 2013, along with the relevant rules made thereunder
Corporate Governance	The way in which companies run themselves, in particular the way in which they are accountable to those who have a vested interest in their performance, especially their shareholders
Cut-off Price	Any price within the Price Band. A Bid submitted at the Cut-off Price by a Retail Individual Bidder is a valid Bid at all price levels within the Price Band
Debenture Rules	Companies (Share Capital and Debenture) Rules, 2014
Debenture Trustee Regulations	Securities and Exchange Board of India (Debenture Trustee) Regulations, 1993
Dematerialise	The process of transforming securities holdings in physical form to those in electronic form through a Depository Participant

Depositories Act	The Depositories Act, 1996, as amended
Depository	A system of organisation, which keeps records (physical or electronic) of securities, deposited by its depositors, registered with SEBI under the SEBI (Depositories and Participants) Regulations, 1996, as amended from time to time
Depository Participant	An agent of the depository through which it interfaces with the investor. A DP can offer depository services only after it gets proper registration from SEBI
Designated Date	The date on which funds are transferred from the Escrow Account to the Public Issue Account after the Prospectus is filed with the Registrar of Companies, following which the Board of Directors shall allot and/or transfer equity shares to successful Bidders
Draft Red Herring Prospectus	A draft offer document issued in accordance with Section 32 of the Companies Act, 2013 and the SEBI Regulations, filed with SEBI which does not contain complete particulars of the issue price
Electronic Book Provider	A secured electronic bidding platform provided by the stock-exchanges
Equity Shares	Equity shares of the issuer
Escrow Account	Account opened with an Escrow Collection Bank and in whose favour the Bidder shall issue cheques or drafts in respect of the Bid Amount when submitting a Bid
Escrow Agreement	Agreement entered into by the issuer, Registrar, BRLMs and the Escrow Collection Bank for collection of the Bid Amount and when applicable, refund of the amounts collected from the Bidders (excluding the Bidders applying through ASBA) on the terms and conditions thereof
Escrow Collection Bank(s)	The banks at which the Escrow Account shall be opened

FEMA	Foreign Exchange Management Act, 1999, as amended from time to time
First Bidder	The Bidder whose name appears first in the Bid cum Application Form or Revision Form.
Fiscal or FY or Financial Year	Twelve months ending March 31 of a particular year
Floor Price	The lower end of the Price Band below which the Issue Price shall not be finalised and below which no Bids shall be accepted
Foreign institutional investor	An institution established or incorporated outside India which proposes to make investment in India in securities; provided that a domestic asset management company or domestic portfolio manager who manages funds raised or collected or brought from outside India for investment in India on behalf of a sub-account, shall be deemed to be a Foreign Institutional Investor
FPI	Foreign Portfolio Investor registered under the Securities and Exchange Board of India (Foreign Portfolio Investor) Regulations, 2014
FVCI	Foreign Venture Capital Investors as defined and registered with SEBI under the SEBI FVCI Regulations
Green Shoe Option	An option to the BRLMs and the issuer, in consultation with the Stabilising Agent, to allocate equity shares in excess of the equity shares included in the Issue and operate a post-listing price stabilisation mechanism in accordance with the SEBI Regulations, which is to be exercised through the Stabilising Agent
Green Shoe Option Portion	The portion of the Issue being up to 15% of the Issue Size. Which can be borrowed from either a promoter or a large shareholder and allotted at the time of allotment to investors, and which is required to be returned to the green shoe lenders at the end of the price stabilisation period

Indian GAAP	Generally accepted accounting principles in India
Ind-AS	Indian Accounting Standards
Insider trading	Practice of corporate agents buying or selling their corporation's securities without disclosing to the public significant information which is known to them but which has not yet affected the price
Institutional Investors	Organizations those invest, including insurance companies, depository institutions, pension funds, investment companies, and endowment funds
Insider Trading Regulations	The Securities and Exchange Board of India (Prohibition of Insider Trading) Regulations, 2015 and amendments thereto
InvIT(s)	Infrastructure investment trust(s)
InvIT Regulations	Securities and Exchange Board of India (Infrastructure Investment Trusts) Regulations, 2014
IPO	Initial public offering
Issue Price	The price at which Allotment of equity shares shall be made as determined by the Issuer, in consultation with the BRLMs, on the Pricing Date
Listing Regulations	Securities and Exchange Board of India (Listing Obligations and Disclosure Requirements) Regulations, 2015, as amended from time to time
LLP	Limited Liability Partnership
Members of the Syndicate	The BRLMs and the Syndicate Members
Merchant Banker	Any person who is engaged in the business of issue management either by making arrangement regarding selling, buying or subscribing to securities or acting as manager, consultant, adviser or rendering corporate advisory service in relation to such issue management

NCDs	Non Convertible Debentures
NSE	National Stock Exchange of India Ltd
Non-Institutional investors	All Bidders that are not Qualified Institutional Buyers or Retail Individual Bidders
Non-Institutional Portion	The portion of the Issue available for allocation to Non-Institutional Bidders.
Offer For Sale	An offer of securities by existing shareholder(s) of an issuer to the public for subscription, through an offer document
Overseas Corporate Body/ OCB	A company, partnership, society or other corporate body owned directly or indirectly to the extent of at least 60% by NRIs, including overseas trusts in which not less than 60% of beneficial interest is irrevocably held by NRIs directly or indirectly as defined under Foreign Exchange Management (Deposit) Regulations, 2000. OCBs are not allowed to invest in public offers
PAS Rules	Companies (Prospectus and Allotment of Securities) Rules, 2014
Preferential allotment	Further issue of equity shares / securities convertible into equity shares at a later date, to a select group of persons in preference to all the existing shareholders of the issuer
Price Band	Being the price band of a minimum price (Floor Price) and the maximum price (Cap Price) (both inclusive), including revisions thereof
Pricing Date	The date on which the issuer, in consultation with the BRLMs, finalise the Issue Price
Prospectus	The prospectus to be filed with the Registrar of Companies containing, <i>inter alia</i> , the Issue Price that is determined at the end of the book building process, the size of the Issue and certain other information
Public Issue Account	Account opened with the Bankers to the Issue to receive monies from the Escrow Account of the issuer on the Designated Date

QIB Portion	The portion of the Issue available for allocation to QIBs
QIP	Qualified Institutions Placement
Qualified Institutional Buyers or QIBs	Public financial institutions as defined in Section 4A of the Companies Act, FPI scheduled commercial banks, mutual funds registered with SEBI, venture capital funds registered with SEBI, alternate investment funds registered with SEBI, foreign venture capital investors registered with SEBI, state industrial development corporations, insurance companies registered with the Insurance Regulatory and Development Authority, provident funds with minimum corpus of ₹ 250 million, pension funds with minimum corpus of ₹ 250 million, multilateral and bilateral development financial institutions, the National Investment Fund set up by the Government of India, insurance funds set up and managed by army, navy or air force of the Union of India, and insurance funds set up and managed by the Department of Posts, India
Red Herring Prospectus	Red Herring Prospectus issued in accordance with Section 32 of the Companies Act, 2013 which does not have complete particulars on the price at which the equity shares are offered and size of the Issue. The Red Herring Prospectus shall be filed with the Registrar of Companies at least three days before the opening of the Issue and shall become a Prospectus after filing with the Registrar of Companies after the pricing and allocation
Registered Brokers	Stock brokers registered with the stock exchanges having nationwide terminals, other than the Members of the Syndicate
Registrar and Share Transfer Agents or RTAs	Registrar and share transfer agents registered with SEBI and eligible to procure Bids at the Designated RTA Locations in terms of circular no. CIR / CFD / POLICYCELL / 11 / 2015 dated November 10, 2015 issued by SEBI

Registrar of Companies	The registrar of companies with which an issuer is registered
REIT	Real estate investment trusts
REIT Regulations	Securities and Exchange Board of India (Real Estate Investment Trusts) Regulations, 2014
Retail Individual Bidders	Individual Bidders (including hindu undivided families and non-resident Indians) who apply or bid for securities of or for a value of not more than ₹ 0.2 million in any of the bidding options in the Issue
Research Analyst Regulations	Securities and Exchange Board of India (Research Analysts) Regulations, 2014, as amended from time to time
Resident Retail Individual Investor	A retail individual investor who is a person resident in India as defined in Foreign Exchange Management Act, 1999
Retail Portion	The portion of the Issue available for allocation to Retail Individual Bidder(s)
Revision Form	The form used by the Bidders to modify the quantity of equity shares or the Bid Price in any of their Bid cum Application Forms or any previous Revision Form(s)
Rights Issue/ Rights Shares	The issue of new securities to existing shareholders in a fixed ratio to those already held
SCRA	Securities Contracts (Regulation) Act, 1956
SCRR	Securities Contracts (Regulation) Rules, 1957
SEBI	Securities and Exchange Board of India
SEBI Act	Securities and Exchange Board of India Act, 1992, as amended from time to time
SEBI AIF Regulations	Securities and Exchange Board of India (Alternative Investments Funds) Regulations, 2012, as amended from time to time
SEBI Debt Regulations	Securities and Exchange Board of India (Issue and Listing of Debt Securities) Regulations, 2008

SEBI FVCI Regulations	Securities and Exchange Board of India (Foreign Venture Capital Investor) Regulations, 2000, as amended from time to time
SEBI MB Regulations	Securities and Exchange Board of India (Merchant Banker) Regulations, 1992, as amended from time to time
SEBI Regulations	Securities and Exchange Board of India (Issue of Capital and Disclosure Requirements) Regulations, 2009, as amended from time to time
SEBI Takeover Regulations	Securities and Exchange Board of India (Substantial Acquisition of Shares and Takeovers) Regulations, 2011, as amended from time to time
SEBI VCF Regulations	Securities and Exchange Board of India (Venture Capital Funds) Regulations, 1996 as repealed pursuant to the SEBI AIF Regulations
Self Certified Syndicate Bank/SCSB	SCSB is a banker to an issue registered under SEBI (Bankers to an Issue) Regulations, 1994 which offers the service of making an ASBA
SPV(s)	Special Purpose Vehicles
U.S. GAAP	Generally accepted accounting principles of the United States
VCF	Venture capital funds as defined in and registered with SEBI under the SEBI VCF Regulations or the SEBI AIF Regulations as the case may be

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