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SEBI Board Meeting

The SEBI Board met today and took the following decisions:

A. SME Exchange/ Platform:

- Ø Companies listed on the SME exchanges would be exempted from the eligibility norms applicable for IPOs and FPOs prescribed in the Securities and Exchange Board of India (Issue of Capital and Disclosure Requirements) Regulations, 2009 (ICDR).
- Ø In order to have informed, financially sound and well-researched investors with a certain risk taking ability, a minimum IPO application size of Rs. 1 lakh would be prescribed.
- Ø The minimum trading lot would be Rs. 1 lakh.
- Ø An upper limit of Rs. 25 crore paid up capital would be prescribed in order for a company to be listed on the SME platform/exchange and a minimum paid up capital of Rs.10 crore would be prescribed for listing on the main boards of NSE and BSE.
- Ø The offer document will have to be filed with SEBI and the exchange. No observations would be issued by SEBI on the offer documents filed by the Merchant Bankers (MBs).
- Ø The MB to the issue will bear the responsibility for market making for a minimum period of three years. MBs would be allowed to do market making along with a disclosed nominated investor (like PE, VC, HNI and QIB). Under this arrangement, all the stock being bought and sold as part of market making will ultimately get transferred to the disclosed nominated investor with whom the Merchant Banker has a contractual agreement. Merchant Banker would have to disclose their intention of this arrangement and have it approved by stock exchanges where the issuer SME is listed.
- Ø Certain well capitalized registered entities like Venture Capitalists may be allowed to have a contractual agreement with the Merchant Banker to share the burden of devolvement of underwriting obligation.
- Ø During the compulsory market making period, promoters/acquirers will be allowed to dilute their shareholding only through offer for sale or to an acquirer and not to a market maker.
- Ø SEBI regulations on Takeover (Substantial Acquisition of Shares and Takeovers Regulations) will not be applicable to acquisition of shares through Merchant Banker /Market Maker provided that the Merchant Banker/Market Maker does not have the intention of taking over the management and there is no change in control (direct /indirect) of the company.

- Ø Merchant Bankers who have the responsibility of market making and have a firm allotment made in IPO for purpose of market making may, at their option, be represented on the board of directors of the company in view of the commitment of market making subject to agreement of the issuer. However this will not be mandatory on the Merchant Banker.
- Ø No separate category of Merchant Bankers will be created.
- Ø Merchant Bankers will be required to ensure that the issue is 100% underwritten. However only a minimum percentage (15%) of the issue size will be mandated to be compulsorily underwritten by the Merchant Banker itself.
- Ø A minimum number of investors (say 50) shall be specified for the IPO only. There shall be no continuing requirement of maintaining the minimum number of investors. However, compliance with the requirements of Companies Act, 1956 needs to be ensured at all times.
- Ø No separate registration will be required for brokers intending to service companies listed on the SME exchange/platform.
- Ø Companies listed on the SME exchange/platform shall compulsorily migrate to an equity exchange/segment (main board) on exceeding the Rs 25 crore post issue paid up capital limit. Further also, if follow on offer/rights issue results in triggering of the above limit (of Rs. 25 crore) then the company would have to migrate to the main board.
- Ø Companies listed on the SME exchange/ platform of an existing exchange may send to their shareholders a statement containing the salient features of all the documents as prescribed in section 219 (1) (b) (iv) of Companies Act, 1956. This information shall also be displayed on the website of the exchange. Further the Company shall compulsorily maintain a website on which this information can be displayed.
- Ø Investors with holdings of value less than Rs. 1,00,000 (such reduction in the holding may have been due to fall in prices or his having offloaded a part of the holdings previously), are allowed to off load their holding to the Market Maker in that scrip. (provided that the investor sells his entire holding in that scrip in one lot). Market Makers will be authorised to buy these shares from such investors.
- Ø Preparation and submission of financial results (as mandated in the listing agreement) on a "half yearly basis" for SMEs, instead of "quarterly basis".
- Ø All the provisions of clause 49 (corporate governance) need to be complied with.

B. Amendments to ICDR Regulations/ Listing Agreement

(a) QIB Status to insurance funds set up by armed forces

The Board decided to accord QIB status to insurance funds set up by armed forces such as Army Group Insurance Fund.

(b) Reservation to employees

Currently the ICDR regulations permit reservation upto 10% of issue size to employees in public issues. However, there is no ceiling on number of shares that could be allotted. The Board decided to put a ceiling of Rs.1 lakh on the value of allotment that can be made to an employee under employee reservation category and to permit reservation upto 5% of the post issued capital instead of 10% of issue size.

The Board also decided to extend reservation to employees along with rights issue.

The ICDR Regulations also provide for discount upto 10% of issue price to retail individual investors and shareholders but not to employees. The Board decided to allow discount of not more than 10 percent to employees also under the reserved category only in public issues for application size upto

Rs.1,00,000/-.

(c) Voluntary adoption of IFRS by listed entities having subsidiaries

The Board observed that providing a voluntary option to all listed entities which consolidate their books of accounts to submit their financials as per IFRS would be in line with the objective of achieving convergence to IFRS by 2011 and would help in preparing corporate entities well in advance for compliance with IFRS requirements. The Board, therefore, decided to provide an option to all listed entities with subsidiaries to submit their consolidated financial statements as per IFRS. However, such entities shall continue to file their stand alone financials as per Indian GAAP in line with the Companies Act requirements.

(d) Interim disclosure of Balance Sheet items by listed entities

Taking note that internationally most jurisdictions require disclosure of Balance Sheet items on an interim basis whereas in India companies disclose only interim financial results, the Board decided to mandate half-yearly disclosure of Balance Sheet items with audited figures or un-audited figures with limited review.

(e) Timelines for submission of financial results by listed entities

Currently, there are varying time limes for disclosure of unaudited/ audited/ limited review results. The Board decided to make it mandatory to disclose only limited review or audited results within 45 days of the end of the quarter. The Board also decided to reduce timeline for disclosure of audited annual results from 90 days to 60 days to those companies which opt to submit their annual audited results on a stand-alone basis in lieu of the last quarter un-audited financial results.

(f) Requirements for Fast Track Issues

In order to enable well established and compliant listed companies to access Indian primary market in a time effective manner through follow-on public offerings and rights issues, SEBI introduced the concept of Fast Track Issues (FTIs) in November 2007. SEBI Board on a review decided to relax certain requirements of FTIs such as reducing the average market capitalization of public shareholding of the issuer to five thousand crore rupees from ten thousand crore rupees, pegging the annualized trading turnover to free float for companies whose public shareholding is less than 15 percent of the issued capital. The Board also decided that incase the clause relating to composition of Board of Directors has not been complied with in one or more quarters, it need not be deemed as non compliance, provided the company is in compliance in this regard at the time of filing the offer document with stock exchange/ ROC and adequate disclosures are made in the offer document in this respect.

(g) Relaxation from restatement of financial statements

SEBI had recently rationalized financial disclosure requirements for rights issues on the ground that much of the information of a listed company is available in public domain. For rights issues, the issuer is now required to give only the audited accounts of last financial year and audited or unaudited financials with limited review results for the stub period instead of 5 years restated financials required earlier.

Extending the same logic, the Board decided that the requirement for disclosure of financials in FPOs of identical instruments quoted on a stock exchange may be brought on par with rights issues, to start with for companies that are eligible to make an issue under fast track, subject to certain conditions.

(h) Introduction of pure auction as an additional book building mechanism

The Board decided to introduce an additional method of book building, to start with, for FPOs, in which the bidders would be free to bid at any price above the floor price and allotment would be on price priority basis and at differential prices. However, retail individual investors in such cases would be allotted shares at the floor price.

The Board further decided that if the issuer desires to place a cap either in terms of number of shares or percentage to issued capital of the company in order that a single bidder does not garner all shares on offer and there is wider distribution, the same may be permitted.

Mumbai

November 9, 2009



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