2009

SEBI Guidelines

For CA Final Studies

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Contents

CHAPTER II: ELIGIBILITY NORMS FOR COMPANIES ISSUING SECURITIES

2.0 Conditions for issue of securities

The companies issuing securities offered through an offer document shall satisfy the following at the time of filing the draft offer document with SEBI (unless specified otherwise in the Chapter) and also at the time of filing the final offer document with the Registrar of Companies/Designated Stock Exchange:

2.1 Filing of Offer document

2.1.1 (No issuer company shall make any public issue of securities, unless a draft Prospectus has been filed with the Board through a Merchant Banker, at least 30 days prior to the filing of the Prospectus with the Registrar of Companies (ROC):

Provided that, if the Board specifies changes or issues observations on the draft Prospectus (without being under any obligation to do so), the issuer company or the Lead Manager to the Issue shall carry out such changes in the draft Prospectus or comply with the observations issued by the Board before filing the Prospectus with ROC.

Provided further that, the period within which the Board may specify changes or issue observations, if any, on the draft Prospectus shall be 30 days from the date of receipt of the draft Prospectus by the Board.

Provided further that where the Board has sought any clarification or additional information from the Lead Manager/s to the Issue, the period within which the Board may specify changes or issue observations, if any, on the draft Prospectus shall be 15 days from the date of receipt of satisfactory reply from the Lead Manager/s to the Issue.

Provided further that, where the Board has made any reference to or sought any clarification or additional information from any regulator or such other agencies, the Board may specify changes or issue observations, if any, on the draft Prospectus after receipt of comments or reply from such regulator or other agencies.

Provided further that, the Board may specify changes or issue observations, if any, on the draft Prospectus only after receipt of copy of in-principle approval from all the stock exchanges on which the issuer company intends to list the securities proposed to be offered through the Prospectus.)

2.1.2 No listed issuer company shall make any rights issue of securities, (where the aggregate value of such securities, including premium, if any, exceeds Rs. 50 lacs,) unless a draft letter of offer has been filed with the Board, through a Merchant Banker, at least 30 days prior to the filing of the letter of offer with the Designated Stock Exchange (DSE).

Provided that, if the Board specifies changes or issues observations on the draft Letter of Offer (without being under any obligation to do so), the issuer company or the Lead Manager to the Issue shall carry out such changes in the draft Letter of Offer or comply with the observations issued by the Board before filing the Letter of Offer with DSE.

Provided further that, the period within which the Board may specify changes or issue observations, if any, on the draft Letter of Offer shall be 30 days from the date of receipt of the draft Letter of Offer by the Board.

Provided further that, where the Board has sought any clarification or additional information from the Lead Manager/s to the Issue, the period within which the Board may specify changes or issue observations, if any, on the draft Letter of Offer shall be 15 days from the date of receipt of satisfactory reply from the Lead Manager/s to the Issue.

Provided further that, where the Board has made any reference to or sought any clarification or additional information from any regulator or such other agencies, the Board may specify changes or issue observations, if any, on the draft Letter of Offer after receipt of comments or reply from such regulator or other agencies.

Provided further that, the Board may specify changes or issue observations, if any, on the draft Letter of Offer only after receipt of copy of in-principle approval from all the stock exchanges on which the issuer company intends to list the securities proposed to be offered through the Letter of Offer.

2.1.2A Fast Track Issues

2.1.2A.1. Nothing contained in clauses 2.1.1 and 2.1.2 shall apply to a public issue of securities by a listed issuer company or a rights issue of securities by a listed issuer company, where the aggregate value of such securities, including premium, if any, exceeds Rs. 50 lacs, if the following conditions are satisfied:

(a) The shares of the company have been listed on any stock exchange having nationwide terminals for a period of at least three years immediately preceding the reference date;

(b) The “average market capitalisation of public shareholding” of the company is at least Rs. 10,000 crores for a period of one year up to the end of the quarter preceding the month in which the proposed issue is approved by the Board of Directors / shareholders of the issuer;

(c) The annualized trading turnover of the shares of the company during six calendar months immediately preceding the month of the reference date has been at least two percent of the weighted average number of shares listed during the said six months period;

(d) The company has redressed at least 95% of the total shareholder/investor grievances or complaints received till the end of the quarter immediately preceding the month of the reference date;

(e) The company has complied with the listing agreement for a period of at least three years immediately preceding the reference date;
(f) The impact of auditors' qualifications, if any, on the audited accounts of the company in respect of the financial years for which such accounts are disclosed in the offer document does not exceed 5% of the net profit/ loss after tax of the company for the respective years.

(g) No prosecution proceedings or show cause notices issued by the Board are pending against the company 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.

Explanation: For the purposes of this clause:
(a) "Reference date" shall mean:
(i) in case of a public issue of securities by a listed company satisfying all the requirements specified in this clause, the date of filing of red herring prospectus (in case of a book built issue) or prospectus (in case of a fixed price issue) with ROC; and
(ii) in case of a rights issue of securities by a listed company satisfying all the requirements specified in this clause, where the aggregate value of such securities, including premium, if any, exceeds Rs. 50 lacs, the date of filing of letter of offer with Designated Stock Exchange.

(b) "Average market capitalisation of public shareholding" shall mean the sum of daily market capitalization of "public shareholding" for a period of one year up to the end of the Quarter preceding the month in which the proposed issue was approved by the Board/ shareholders, as the case may be, divided by the number of trading days.
For this purpose, "public shareholding" shall have the same meaning as assigned to it in Clause 40A of the Listing Agreement.

2.1.2A.2 A listed issuer company satisfying all the requirements specified in this clause and filing a red herring prospectus (in case of a book built issue) or prospectus (in case of a fixed price issue) with ROC or letter of offer with Designated Stock Exchange, as the case may be, shall simultaneously with such filing or as soon thereafter as reasonably practicable, but in any case not later than the opening of the issue, file a copy thereof with the Board.")

2.1.3 Companies barred not to issue security
No company shall make an issue of securities if the company has been prohibited from accessing the capital market under any order or direction passed by the Board.

2.1.4 Application for listing
No company shall make any public issue of securities unless it has made an application for listing of those securities in the stock exchange(s).

2.1.5 Issue of securities in dematerialised form

2.1.5.1. No company shall make public or rights issue or an offer for sale of securities, unless:
(a) the company enters into an agreement with a depository for dematerialisation of securities already issued or proposed to be issued to the public or existing shareholders; and
(b) the company gives an option to subscribers/ shareholders/ investors to receive the security certificates or hold securities in dematerialised form with a depository.

Explanation:
A “depository” shall mean a depository registered with the Board under the Securities and Exchange Board of India (Depositories and Participants) Regulations, 1996.

2.2 Initial Public Offerings (IPO) by Unlisted Companies

2.2.1 An unlisted company may make an initial public offering (IPO) of equity shares or any other security which may be converted into or exchanged with equity shares at a later date, only if it meets all the following conditions:

(a) The company has net tangible assets of at least Rs. 3 crores in each of the preceding 3 full years (of 12 months each), of which not more than 50% is held in monetary assets:
Provided that, if more than 50% of the net tangible assets are held in monetary assets, the company has made firm commitments to deploy such excess monetary assets in its business/project;

(b) The company has a track record of distributable profits in terms of Section 205 of the Companies Act, 1956, for at least three (3) out of immediately preceding five (5) years;
Provided further that, extraordinary items shall not be considered for calculating distributable profits in terms of Section 205 of Companies Act, 1956;

(c) The company has a net worth of at least Rs. 1 crore in each of the preceding 3 full years (of 12 months each);

(d) In case the company has changed its name within the last one year, at least 50% of the revenue for the preceding 1 full year is earned by the company from the activity suggested by the new name; and

(e) The aggregate of the proposed issue and all previous issues made in the same financial year in terms of size (i.e., offer through offer document + firm allotment + promoters’ contribution through the offer document), does not exceed five (5) times its pre-issue net worth as per the audited balance sheet of the last financial year.

2.2.2 An unlisted company not complying with any of the conditions specified in Clause 2.2.1 may make an initial public offering (IPO) of equity shares or any other security which may be converted into or exchanged with equity shares at a later date, only if it meets both the conditions (a) and (b) given below:

(a) (i) The issue is made through the book-building process, with at least 50% of net offer to public being allotted to the Qualified Institutional Buyers (QIBs), failing which the full subscription monies shall be refunded.
OR
(a) (ii) The “project” has at least 15% participation by Financial Institutions/ Scheduled Commercial Banks, of which at least 10% comes from the appraiser(s). In addition to this, at least 10% of the issue size shall be allotted to QIBs, failing which the full subscription monies shall be refunded
AND
(b) (i) The minimum post-issue face value capital of the company shall be Rs.10 crores.
OR
(b) (ii) There shall be a compulsory market-making for at least 2 years from the date of listing of the shares, subject to the following:
(a) Market makers undertake to offer buy and sell quotes for a minimum depth of 300 shares;
(b) Market makers undertake to ensure that the bid-ask spread (difference between quotations for sale and purchase) for their quotes shall not at any time exceed 10%:
(c) The inventory of the market makers on each of such stock exchanges, as on the date of allotment of securities, shall be at least 5% of the proposed issue of the company.

2.2.2A An unlisted public company shall not make an allotment pursuant to a public issue or offer for sale of equity shares or any security convertible into equity shares unless, in addition to satisfying the conditions mentioned in Clause 2.2.1 or 2.2.2 as the case may be, if the prospective allottees are not less than one thousand (1000) in number.

2.2.2B For the purposes of clauses 2.2.1 and 2.2.2 above:
(i) ”Net Tangible Assets” shall mean the sum of all net assets of the company, excluding ‘intangible assets’, as defined in Accounting Standard 26 (AS 26) issued by the Institute of Chartered Accountants of India.
(ii) “Project” means the object for which the monies proposed to be raised to cover the objects of the issue.
(iii) In case of partnership firms which have since been converted into companies, the track record of distributable profits of the firm shall be considered only if the financial statements of the partnership business for the said years conform to and are revised in the format prescribed for companies under the Companies Act, 1956 and also comply with the following:
a. adequate disclosures are made in the financial statements as required to be made by the companies as per Schedule VI of the Companies Act, 1956;
b. the financial statements shall be duly certified by a Chartered Accountant stating that:
I. the accounts as revised or otherwise and the disclosures made are in accordance with the provisions of Schedule VI of the Companies Act, 1956; and

II. the accounting standards of the Institute of Chartered Accountants of India (ICAI) have been followed and that the financial statements present a true and fair picture of the firm's Accounts.

(iv) In case of an unlisted company formed out of a division of an existing company, the track record of distributable profits of the division spun off shall be considered only if the requirements regarding financial statements as specified for partnership firms in sub-clause (iv) above are complied with.

(v) "Qualified Institutional Buyer" shall mean:

a. public financial institution as defined in section 4A of the Companies Act, 1956;
b. scheduled commercial banks;
c. mutual funds;
d. foreign institutional investor registered with SEBI;
e. multilateral and bilateral development financial institutions;
f. venture capital funds registered with SEBI;
g. foreign venture capital investors registered with SEBI;
h. state industrial development corporations;
i. insurance companies registered with the Insurance Regulatory and Development Authority (IRDA);
j. provident funds with minimum corpus of Rs. 25 crores;
k. pension funds with minimum corpus of Rs. 25 crores);
l. National Investment Fund set up by resolution no. F. No. 2/3/2005-DDII dated November 23, 2005 of Government of India published in the Gazette of India.

2.2.3 Offer for sale

2.2.3.1 An offer for sale shall not be made of equity shares of a company or any other security which may be converted into or exchanged with equity shares of the company at a later date, unless the conditions laid down in clause 2.2.1 or 2.2.2, as the case may be and in clause 2.2.2A, are satisfied.

2.2.4 Offer for sale can also be made if provisions of clause 2.2.2 are complied at the time of submission of offer document with Board.

2.3 Public Issue by Listed Companies

2.3.1 A listed company shall be eligible to make a public issue of equity shares or any other security which may be converted into or exchanged with equity shares at a later date: Provided that, the aggregate of the proposed issue and all previous issues made in the same financial year in terms of size (i.e., offer through offer document + firm allotment + promoters' contribution through the offer document), issue size does not exceed 5 times its Pre-issue net worth as per the audited balance sheet of the last financial year.

Provided further that, in case there is a change in the name of the issuer company within the last 1 year (reckoned from the date of filing of the offer document), the revenue accounted for by the activity suggested by the new name is not less than 50% of its total revenue in the preceding 1 full-year period.

2.3.2 A listed company which does not fulfill the conditions given in the provisos to Clause 2.3.1 above shall be eligible to make a public issue, subject to complying with the conditions specified in clause 2.2.2.

2.4 Exemption from Eligibility Norms

2.4.1 The provisions of clauses 2.2 and 2.3 shall not be applicable in case of:
i) a banking company including a Local Area Bank (hereinafter referred to as Private Sector Banks) set up under sub-section (c) of Section 5 of the Banking Regulation Act, 1949 and which has received license from the Reserve Bank of India; or

ii) a corresponding new bank set up under the Banking Companies (Acquisition and Transfer of Undertaking) Act, 1970 Banking Companies (Acquisition and Transfer of Undertaking) Act, 1980, State Bank of India Act 1955 and State Bank of India (Subsidiary Banks) Act, 1959 (hereinafter referred to as “public sector banks”);

iii) an infrastructure company:
a) whose project has been appraised by a Public Financial Institution (PFI) or Infrastructure Development Finance Corporation (IDFC) or Infrastructure Leasing and Financing Services Ltd. (IL&FS) or a bank which was earlier a PFI; and
b) not less than 5% of the project cost is financed by any of the institutions referred to in sub-clause (a), jointly or severally, irrespective of whether they appraise the project or not, by way of loan or subscription to equity or a combination of both;

iv) rights issue by a listed company.

2.5 Credit Rating for Debt Instruments

2.5.1A No issuer company shall make a public issue or rights issue of debt instruments (whether convertible or not), unless the following conditions are also satisfied, as on date of filing of draft offer document with SEBI and also on the date of filing a final offer document with ROC/ Designated Stock Exchange:
(i) Credit rating is obtained from at least one credit rating agency registered with the Board and disclosed in the offer document;
(ii) The company is not in the list of willful defaulters of RBI;
(iii) The company is not in default of payment of interest or repayment of principal in respect of debentures issued to the public, if any, for a period of more than 6 months.

2.5.1B An issuer company shall not make an allotment of non-convertible debt instrument pursuant to a public issue if the proposed allottees are less than fifty (50) in number.
In such a case the company shall forthwith refund the entire subscription amount received.
If there is a delay beyond 8 days after the company becomes liable to pay the amount,
the company shall pay interest @15% p.a. to the investors.

2.5.2 Where credit ratings are obtained from more than one credit rating agencies, all the ratings, including the unaccepted ratings, shall be disclosed in the offer document.

2.5.4 All the credit ratings obtained during the three (3) years preceding the pubic or rights issue of debt instrument (including convertible instruments) for any listed security of the issuer company shall be disclosed in the offer document.

2.5A IPO Grading

2.5A.1 No unlisted company shall make an IPO of equity shares or any other security which may be converted into or exchanged with equity shares at a later date, unless the following conditions are satisfied as on the date of filing of Prospectus (in case of fixed price issue) or Red Herring Prospectus (in case of book built issue) with ROC:
(i) the unlisted company has obtained grading for the IPO from at least one credit rating agency;
(ii) disclosures of all the grades obtained, along with the rationale/description furnished by the credit rating agency(ies) for each of the grades obtained, have been made in the Prospectus (in case of fixed price issue) or Red Herring Prospectus (in case of book built issue);
and
(iii) the expenses incurred for grading IPO have been borne by the unlisted company obtaining grading for IPO.)

2.6 Outstanding Warrants or Financial Instruments

2.6.1 No unlisted company shall make a public issue of equity share or any security convertible at later date into equity share, if there are any outstanding financial instruments or any other right which would entitle the existing promoters or shareholders any option to receive equity share capital after the initial public offering.

2.7 Partly Paid-up Shares

2.7.1 No company shall make a public or rights issue of equity share or any security convertible at later date into equity share, unless all the existing partly paid-up shares have been fully paid or forfeited in a manner specified in clause 8.6.2.

2.8 Means of Finance

No company shall make a public or rights issue of securities unless firm arrangements of finance through verifiable means towards 75% of the stated means of finance, excluding the amount to be raised through proposed Public/ Rights issue, have been made.

CHAPTER III: PRICING BY COMPANIES ISSUING SECURITIES

3.0 The companies eligible to make public issue can freely price their equity shares or any security convertible at later date into equity shares in the following cases:

3.1 Public/ Rights Issue by Listed Companies

3.1.1 A listed company whose equity shares are listed on a stock exchange, may freely price its equity shares and any security convertible into equity at a later date, offered through a public or rights issue.

3.2 Public Issue by Unlisted Companies

3.2.1 An unlisted company eligible to make a public issue and desirous of getting its securities listed on a recognised stock exchange pursuant to a public issue, may freely price its equity shares or any securities convertible at a later date into equity shares.

3.2A Infrastructure company
3.2A.1 An eligible infrastructure company shall be free to price its equity shares, subject to the compliance with the disclosure norms as specified by SEBI from time to time.

3.3 Initial public Issue by Banks

3.3.1 The banks (whether public sector or private sector) may freely price their issue of equity shares or any securities convertible at a later date into equity share, subject to approval by the Reserve Bank of India.

3.4 Differential Pricing

3.4.1 Any unlisted company or a listed company making a public issue of equity shares or securities convertible at a later date into equity shares, may issue such securities to applicants in the firm allotment category at a price different from the price at which the net offer to the public is made, provided that the price at which the security is being offered to the applicants in firm allotment category is higher than the price at which securities are offered to public.

Explanation:
The net offer to the public means the offer made to the Indian public and does not include firm allotments or reservations or promoters' contributions.

3.4.1A An unlisted company or a listed company making a public issue of equity shares or securities convertible at a later date into equity shares may issue such securities to retail individual investors and/or retail individual shareholders at a price lower than the price at which net offer is made to other categories of public.

Provided that, the difference between the price at which the securities are issued to retail individual investors and/or retail individual shareholders and the price at which the net offer is made to other categories of public, is not more than 10% of the price at which securities are offered to other categories of public.

3.4.2 A listed company making a composite issue of capital may issue securities at differential prices in its public and rights issue.

3.4.3 In the public issue which is a part of a composite issue, differential pricing as per sub-clauses 3.4.1 and 3.4.1A above is also permissible.

3.4.4 Justification for the price difference shall be given in the offer document for sub-clauses 3.4.1, 3.4.1A and 3.4.2.

3.5 Price Band

3.5.1 Issuer company can mention a price band of 20% (cap in the price band should not be more than 20% of the floor price) in the offer documents filed with the Board and actual price can be determined at a later date before filing of the offer document with ROCs.

3.5.2 If the Board of Directors has been authorised to determine the offer price within a specified price band such price shall be determined by a Resolution to be passed by the Board of Directors.

3.5.3 The Lead Merchant Bankers shall ensure that in case of the listed companies, a 48 hours notice of the meeting of the Board of Directors for passing resolution for determination of price is given to the Designated Stock Exchange.

3.5.4 In case of public issue by listed issuer company, issue price or price band may not be disclosed in the draft prospectus filed with the Board.

3.5.5 In case of a rights issue, issue price or price band may not be disclosed in the draft letter of offer filed with the Board. The issue price may be determined anytime before fixation of the record date, in consultation with the Designated Stock Exchange.

3.5.6 The final offer document shall contain only one price and one set of financial projections, if applicable.

3.6 Payment of Discounts/ Commissions, etc.

3.6.1 No payment, direct or indirect in the nature of a discount, commission and allowance or otherwise shall be made either by the issuer company or the promoters in any public issue, to the persons who have received firm allotment in such public issue.

3.7 Freedom to determine the denomination of shares for public / rights issues and to change the standard denomination

3.7.1 An eligible company shall be free to make public or rights issue of equity shares in any denomination determined by it in accordance with Sub-section (4) of Section 13 of the Companies Act, 1956 and in compliance with the following and other norms as may be specified by SEBI from time to time:

i. In case of initial public offer by an unlisted company,
a. if the issue price is Rs. 500/- or more, the issuer company shall have a discretion to fix the face value below Rs. 10/- per share subject to the condition that the face value shall in no case be less than Rs. 1 per share;
b. if issue price is less than Rs. 500 per share, the face value shall be Rs. 10/- per share;

Provided that nothing contained in sub-clause (i) shall apply to initial public offer made by any government company, statutory authority or corporation or any special purpose vehicle set up by any of them, which is engaged in infrastructure sector.

Explanation:

For the purposes of this proviso, the term “Infrastructure sector” shall include the following facilities/services:

(i) Transportation (including inter modal transportation), including the following:(a) Roads, national highways, state highways, major district roads, other district roads and village roads, including toll roads, bridges, highways, road transport providers and other road-related services;(b) Rail system, rail transport providers, metro rail roads and other railway related services;(c) Ports (including minor ports and harbors), inland waterways, coastal shipping including shipping lines and other port related services;(d) Aviation, including airports, heliports, airlines and other airport related services;(e) Logistics services;

(ii) Agriculture, including the following:(a) Infrastructure related to storage facilities;
(b) Construction relating to projects involving agro-processing and supply of inputs to agriculture;(d) Construction for preservation and storage of processed agro-products, perishable goods such as fruits, vegetables and flowers including testing facilities for quality;

(iii) Water management, including the following:(a) Water supply or distribution;
(b) Irrigation;(c) Water treatment, etc.

(iv) Telecommunication, including the following:(a) Basic or cellular, including radio paging; (b) Domestic satellite service (i.e., satellite owned and operated by an Indian company for providing telecommunication service); (c) Network of trunking, broadband network and internet services;

(v) Industrial, Commercial and Social development and maintenance, including the following:(a) Real estate development, including an industrial park or special economic zone;(b) Tourism, including hotels, convention centers and entertainment centers;
(c) Public markets and buildings, trade fair, convention, exhibition, cultural centers, sports and recreation infrastructure, public gardens and parks; (d) Construction of educational institutions and hospitals; (e) Other urban development, including solid waste management systems, sanitation and sewerage systems,etc.;

(vi) Power, including the following:(a) Generation of power through thermal, hydro, nuclear, fossil fuel, wind and other renewable sources;(b) Transmission ,distribution or trading of power by laying a network of new transmission or distribution lines;

(vii) Petroleum and natural gas, including the following: (a) Exploration and production;
(b) Import terminals; (c) Liquefaction and re-gasification; (d) Storage terminals;
(e) Transmission networks and distribution networks including city gas infrastructure;

(viii) Housing, including the following:(a) Urban and rural housing including public / mass housing, slum rehabilitation etc;(b) Other allied activities such as drainage, lighting, laying of roads, sanitation facilities etc.;

(ix) Other miscellaneous facilities/services, including the following: (a) Mining and related activities; (b) Technology related infrastructure; (c) Manufacturing of components and materials or any other utilities or facilities required by the infrastructure sector like
energy saving devices and metering devices, etc; (d) Environment related infrastructure;
(e) Disaster management services; (f) Preservation of monuments and icons;(g) Emergency services (including medical, police, fire, and rescue;

(x) Such other facility/service which, in the opinion of the Board, constitutes infrastructure sector.

ii. The disclosure about the face value of shares (including the statement about the issue price being “X” times of the face value) shall be made in the advertisement, offer documents and in application forms in identical font size as that of issue price or price band.

3.7.2 The companies which have already issued shares in the denomination of Rs.10/- or Rs.100/- may change the standard denomination of the shares by splitting or consolidating the existing shares.

3.7.3 The companies proposing to issue shares in any denomination or changing the standard denomination in terms of clause 3.7.1 or 3.7.2 above shall comply with the following:

(a) the shares shall not be issued in the denomination of decimal of a rupee;

(b) the denomination of the existing shares shall not be altered to a denomination of decimal of a rupee;

(c) at any given time there shall be only one denomination for the shares of the company;

(d) the companies seeking to change the standard denomination may do so after amending the Memorandum and Articles of Association, if required;

(e) the company shall adhere to the disclosure and accounting norms specified by SEBI from time to time.

CHAPTER IV: PROMOTERS' CONTRIBUTION AND LOCK-IN REQUIREMENTS

PART I - PROMOTERS' CONTRIBUTION

4.0 Promoters' contribution in any issue shall be in accordance with the following provisions as on –

(i) the date of filing red herring prospectus (in case of a book built issue) or prospectus (in case of a fixed price issue) with ROC or letter of offer with Designated Stock Exchange, as the case may be, in case of a fast track issue; and

(ii) the date of filing draft offer document with the Board, in any other case.

4.1 Promoters' Contribution in a Public Issue by Unlisted Companies

4.1.1 In a public issue by an unlisted company, the promoters shall contribute not less than 20% of the post issue capital.

4.2 Promoters' Shareholding in Case of Offers for Sale

4.2.1 The promoters' shareholding after offer for sale shall not be less than 20% of the post issue capital.

4.3 Promoters' Contribution in Case of Public Issues by Listed Companies

4.3.1 In case of public issues by listed companies, the promoters shall participate either to the extent of 20% of the proposed issue or ensure post-issue share holding to the extent of 20% of the post-issue capital.

4.4 Promoters' Contribution in Case of Composite Issues

4.4.1 In case of composite issues of a listed company, the promoters' contribution shall at the option of the promoter(s) be either 20% of the proposed public issue or 20% of the post-issue capital.

4.4.2 Rights issue component of the composite issue shall be excluded while calculating the post-issue capital.

4.6 Securities Ineligible for Computation of Promoters' Contribution

4.6.1 Where the promoters of any company making an issue of securities have acquired equity during the preceding three years, before filing the offer documents with the Board, such equity shall not be considered for computation of promoters contribution if it is;

(i) acquired for consideration other than cash and revaluation of assets or capitalisation of intangible assets is involved in such transaction(s); or

(ii) resulting from a bonus issue, out of revaluation reserves or reserves created without accrual of cash resources 61(or against shares which are otherwise ineligible for computation of promoters' contribution;

4.6.2 In case of public issue by unlisted companies, securities which have been (acquired by) the promoters during the preceding one year, at a price lower than the price at which equity is being offered to public shall not be eligible for computation of promoters' contribution.

Provided that, the shares for which the difference between the offer price and the issue price for these shares is brought in by the promoters shall be considered eligible subject to issuer company complying with the applicable provisions of the Companies Act, 1956 (such as passing of revised resolution by shareholders or issuer's Board, filing of revised return of allotment with ROC, etc.)

Provided further that, nothing contained in clause 4.6.2 shall apply to shares acquired by promoters *inter-se*, if such shares had been acquired by the transferor promoter during the preceding one year at a price equal or higher than the price at which equity is being offered to public or had been acquired by the transferor promoter prior to the preceding one year.

Provided further that, nothing contained in clause 4.6.2 shall apply to an unlisted government company, statutory authority or corporation or any special purpose vehicle set up by any of them, which is engaged in infrastructure sector.

Explanation:
For the purposes of 3rd proviso above, the term "Infrastructure sector" shall have the same meaning as assigned to it in Explanation to proviso to sub-clause (i) of clause 3.7.1.

4.6.3 In respect of companies formed by conversion of partnership firms, where the partners of the erstwhile partnership firm and the promoters of the converted company are the same and there is no change in management, the shares allotted to the promoters during previous one year out of the funds brought in during that period shall not be considered eligible for computation of promoters contribution unless such shares have been issued at the same price at which the public offer is made.

Provided that, if the partners' capital existed in the firm for a period of more than one year on a continuous basis, the shares allotted to promoters against such capital shall be considered eligible.

4.6.4 In respect of Clauses 4.6.1, 4.6.2 and 4.6.3, such ineligible shares acquired in pursuance to a scheme of merger or amalgamation approved by a High Court shall be eligible for computation of promoters' contribution.

4.6.4A Pledged securities held by promoters shall not be eligible for computation of promoters' contribution.

4.6.5 For the purposes of computing the promoters' contribution referred to in Clauses 4.1.1, 4.1.2, 4.2.1, 4.3.1, 4.4.1 & 4.5.1 above, minimum contribution of Rs.25000 per application from each individual and minimum contribution of Rs.1 lac from firms and companies (not being business associates like dealers and distributors), shall be eligible to be considered towards promoters' contribution.

4.6.6 No securities forming part of promoters' contribution shall consist of any private placement made by solicitation of subscription from unrelated persons either directly or through any intermediary.

4.6.7 The securities for which a specific written consent has not been obtained from the respective shareholders for inclusion of their subscription in the minimum promoters' contribution subject to lock-in shall not be eligible for promoters' contribution.

4.7 Computation of Promoters' Contribution in Case of Issue of Convertible Security

4.7.1 In case of any issue of convertible security by a company, the promoters shall have an option to bring in their subscription by way of equity or by way of subscription to the convertible security being offered through the proposed issue so that the total promoters' contribution shall not be less than the required minimum contribution referred to in Clauses 4.1.1, 4.1.2, 4.2.1, 4.3.1, 4.4.1 & 4.5.1 above.

Provided that, if the conversion price of emerging equity is not predetermined and the same has not been specified in the offer document (instead a formula for conversion price is indicated), the promoters shall not have the said option and shall contribute by subscribing to the same instrument.

4.7.2 In case of any issue of security convertible in stages either at par or premium (conversion price being predetermined), the promoters' contribution in terms of equity share capital shall not be at a price lower than the weighted average price of the share capital arising out of conversion.

Explanation: For the purposes of clause 4.7.2,
(a) ”weights” means the number of equity shares arising out of conversion of security into equity at various stages.
(b) ”price” means the price of equity shares on conversion arrived at after taking into account predetermined conversion price at various stages.

4.7.3 The promoters’ contribution shall be computed on the basis of post issue capital assuming full proposed conversion of such convertible security into equity.

Provided that, where the promoter is contributing through the same optional convertible security as is being offered to the public, such contribution shall be eligible as promoters’ contribution only if the promoter(s) undertakes in writing to accept full conversion.

4.8 Promoters’ Participation in Excess of the Required Minimum Contribution to be treated as Preferential Allotment

4.8.1 In case of a listed company, participation by promoters in the proposed public issue in excess of the required minimum percentage referred in Clauses 4.3.1 and 4.4.1 shall attract the pricing provisions of Guidelines on preferential allotment, if the issue price is lower than the price as determined on the basis of said preferential allotment guidelines.

4.9 Promoters’ Contribution to be brought in before Public Issue Opens

4.9.1 Promoters shall bring in the full amount of the promoters’ contribution including premium at least one day prior to the issue opening date which shall be kept in an escrow account with a Scheduled Commercial Bank and the said contribution/ amount shall be released to the company along with the public issue proceeds.

Provided that, where the promoters’ contribution has been brought prior to the public issue and has already been deployed by the company, the company shall give the cash flow statement in the offer document disclosing the use of such funds received as promoters’ contribution.

Provided further that, where the promoters’ minimum contribution exceeds Rs.100 crores, the promoters shall bring in Rs.100 crores before the opening of the issue and the remaining contribution shall be brought in by the promoters in advance on pro-rata basis before the calls are made on public.

4.9.2 The company’s board shall pass a resolution allotting the shares or convertible instruments to promoters against the moneys received.

4.9.3 A copy of the resolution along with a Chartered Accountants’ Certificate certifying that the promoters’ contribution has been brought in shall be filed with the Board before opening of the issue.

4.9.4 The certificate of the Chartered Accountants shall also be accompanied by a list of names and addresses of friends, relatives and associates who have contributed to the promoters' quota along with the amount of subscription made by each of them.

4.10 Exemption from Requirement of Promoters' Contribution

4.10.1 The requirement of promoters' contribution shall not be applicable:
(a) In case of public issue of securities by a company which has been listed on a stock exchange for at least 3 years and has a track record of dividend payment for at least 3 immediately preceding years.

Provided that, if the promoters participate in the proposed issue to the extent greater than higher of the two options available as per Clauses 4.3.1 and 4.4.1 above, the subscription in excess of such percentage shall attract pricing guidelines on preferential issue, if the issue price is lower than the price as determined on the basis of said guidelines on preferential issue.

(b) In case of companies where no identifiable promoter or promoter group exists.

(c) in case of rights issues.

Provided that, in case of (a) and (c) above, the promoters shall disclose their existing shareholding and the extent to which they are participating in the proposed issue, in the offer document.

PART II - LOCK-IN REQUIREMENTS

4.11 Lock in of Minimum Specified Promoters' Contribution in Public Issues

4.11.1 In case of any issue of capital to the public the minimum promoters' contribution (as per clause 4.1, 4.2, 4.3, 4.4 & 4.5) shall be locked in for a period of 3 years.

4.11.2 The lock-in shall start from the date of allotment in the proposed public issue and the last date of the lock-in shall be reckoned as three years from the date of commencement of commercial production or the date of allotment in the public issue whichever is later.
Explanation:
The expression "Date of commencement of commercial production" means the last date of the month in which commercial production in a manufacturing company is expected to commence as stated in the offer document.

4.12 Lock-in of Excess Promoters' Contribution

4.12.1 In case of a public issue by unlisted company, if the promoters' contribution in the proposed issue exceeds the required minimum contribution, such excess contribution shall also be locked in for a period of one year.

4.12.2 In case of a public issue by a listed company, participation by promoters in the proposed public issue in excess of the required minimum percentage shall also be locked-in for a period of one year as per the lock-in provisions as specified in Guidelines on Preferential issue.
Provided that excess promoters' contribution as per Clause 4.10.1(a) of Part I of this Chapter shall not be subject to lock-in.

4.12.3 In case shortfall in the firm allotment category is met by the promoter as specified in clause 8.5(e), such subscription shall be locked in for a period of one year.

4.14 Lock-in of pre-issue share capital of an unlisted company

4.14.1 The entire pre-issue capital, other than that locked-in as minimum promoters' contribution, shall be locked-in for a period of one year from the date of allotment in the proposed public issue.
Provided that where shares held by promoter(s) are lent to the SA under clause 8A.7, they shall be exempted from the lock in requirements specified above for the period starting from the date of such lending and ending on the date on which they are returned to the same lender(s) under clause 8A.13 or under clause 8A.15, as the case may be.

4.14.2 Clause 4.14.1 shall not be applicable to:

(i) pre-issue shares held by a Venture Capital Fund or a Foreign Venture Capital Investor, subject to the following conditions-

(a) the shares have been held by the Venture Capital Fund or the Foreign Venture Capital Investor, as the case may be, for a period of at least one year as on the date of filing draft prospectus with the Board;
Explanation:
(I) If the shares being held by the Venture Capital Fund or Foreign Venture Capital Investor have been acquired on conversion of convertible instruments at any time before the date of filing draft prospectus with the Board, then the period during which the convertible instruments were held by the Venture Capital Fund or the Foreign Venture Capital Investor as fully paid up, shall be included for purpose of calculation of the period mentioned in item (a).
(II) Convertible Instruments shall be deemed to be fully paid up for the purpose of Cl.(I), if the entire amount payable thereon has been paid and no further payment is envisaged to be made at the time of their conversion.

(b) shares shall be locked in as per the provisions, if any, in SEBI (Venture Capital Funds) Regulations, 1996 or SEBI (Foreign Venture Capital Investors) Regulations, 2000, as the case may be.)

(ii) pre-issue share capital held for a period of at least one year at the time of filing draft offer document with the Board and being offered to the public through offer for sale;
Provided that, the minimum holding requirement of pre-issue capital shall not apply to an offer for sale of equity shares of an unlisted government company, statutory authority or corporation or any special purpose vehicle set up by any of them, which is engaged in infrastructure sector.
Explanation:
For the purposes of this proviso, the term “Infrastructure sector” shall have the same meaning as assigned to it in Explanation to proviso to sub-clause (i) of clause 3.7.1.

(iii) pre-IPO shares held by employees other than promoters, which were issued under employee stock option or employee stock purchase scheme of the issuer company before the IPO. However the same is subject to the issuer company complying with the requirements laid down in Clause 22.4 of SEBI (Employee Stock Option Scheme and Employee Stock Purchase Scheme) Guidelines, 1999.)

4A. Lock-in of securities issued on firm allotment basis Securities issued on firm allotment basis shall be locked-in for a period of one year from the date of commencement of commercial production or the date of allotment in the public issue, whichever is later.)

PART III - OTHER REQUIREMENTS IN RESPECT OF LOCK-IN

4.15 Pledge of Securities Forming Part of Promoters Contribution

4.15.1 Locked-in Securities held by promoters may be pledged only with banks or financial institutions as collateral security for loans granted by such banks or financial institutions, provided the pledge of shares is one of the terms of sanction of loan.

Provided that, if securities are locked in as minimum promoters' contribution under clause 4.11.1, the same may be pledged, only if, in addition to fulfilling the requirements of this clause, the loan has been granted by such banks or financial institutions for the purpose of financing one or more of the objects of the issue.

4.16 *Inter-se* Transfer of Securities Amongst Promoters

4.16.1 Inter-se Transfer of Locked- in Securities
a) Shares held by the person other than the promoters, prior to Initial Public Offering (IPO), which are locked in as per Clause 4.14 of these Guidelines, may be transferred to any other person holding shares which are locked in as per clause 4.14 of these Guidelines subject to continuation of lock-in in the hands of transferees for the remaining period and compliance of Securities and Exchange Board of India (Substantial Acquisition of shares and Takeovers) Regulations, 1997, as applicable.

b) Shares held by promoter(s) which are locked in as per the relevant provisions of this chapter, may be transferred to and amongst promoter/ promoter group or to a new promoter or persons in control of the company, subject to continuation of lock-in in the hands of transferees for the remaining period and compliance of Securities and Exchange Board of India (Substantial Acquisition of shares and Takeovers) Regulations, 1997, as applicable.

4.17 Inscription of Non-Transferability

4.17.1 The securities which are subject to lock-in shall carry inscription `non transferable' along with duration of specified non-transferable period mentioned in the face of the security certificate.

CHAPTER VIII-A: GREEN SHOE OPTION

8A.1

(a) An issuer company making a public offer of equity shares can avail of the Green Shoe Option (GSO) for stabilizing the post listing price of its shares, subject to the provisions of this Chapter.

(b) A company desirous of availing the option granted by this Chapter, shall in the resolution of the general meeting authorizing the public issue, seek authorization also for the possibility of allotment of further shares to the 'stabilizing agent' (SA) at the end of the stabilization period in terms of clause 8A.15.

8A.2 The company shall appoint one of the merchant bankers or Book Runners, as the case may be, from amongst the issue management team, as the "stabilizing agent" (SA), who will be responsible for the price stabilization process, if required. The SA shall enter into an agreement with the issuer company, prior to filing of offer document with SEBI, clearly stating all the terms and conditions relating to this option including fees charged / expenses to be incurred by SA for this purpose.

8A.3

(a) The SA shall also enter into an agreement with the promoter(s) or pre issue shareholders who will lend their shares under the provisions of this Chapter, specifying the maximum number of shares that may be borrowed from the promoters or the shareholders, which shall not be in excess of 15% of the total issue size.

8A.4 The details of the agreements mentioned in clause 8A.2 and 8A.3 shall be disclosed in the draft prospectus, the draft Red Herring prospectus, Red Herring prospectus and the final prospectus. The agreements shall also be included as material documents for public inspection in terms of clause 6.15.1.

8A.5 Lead merchant banker or the Lead Book Runner, in consultation with the SA, shall determine the amount of shares to be over allotted with the public issue, subject to the maximum number specified in clause 8A.3.

8A.6 The draft prospectus, draft Red Herring prospectus, the Red Herring prospectus and the final prospectus shall contain the following additional disclosures:

a. Name of the SA

b. The maximum number of shares (as also the percentage vis a vis the proposed issue size) proposed to be over-allotted by the company.

c. The period, for which the company proposes to avail of the stabilization mechanism,

d. The maximum increase in the capital of the company and the shareholding pattern post issue, in case the company is required to allot further shares to the extent of over-allotment in the issue.

e. The maximum amount of funds to be received by the company in case of further allotment and the use of these additional funds, in final document to be filed with ROC
f. Details of the agreement/ arrangement entered in to by SA with the promoters to borrow shares from the latter which inter-alia shall include name of the promoters, their existing shareholding, number & percentage of shares to be lent by them and other important terms and conditions including the rights and obligations of each party.
g. The final prospectus shall additionally disclose the exact number of shares to be allotted pursuant to the public issue, stating separately therein the number of shares to be borrowed from the promoters and over allotted by the SA, and the percentage of such shares in relation to the total issue size.

8A.7
(a) In case of an initial public offer by a unlisted company, the promoters and pre-issue shareholders and in case of public issue by a listed company, the promoters and pre- issue shareholders holding more than 5% shares, may lend the shares subject to the provisions of this Chapter.
(b) The SA shall borrow shares from the promoters or the pre-issue shareholders of the issuer company or both, to the extent of the proposed over-allotment.
Provided that the shares referred to in this clause shall be in dematerialized form only.

8A.8 The allocation of these shares shall be pro-rata to all the applicants.

8A.9 The stabilization mechanism shall be available for the period disclosed by the company in the prospectus, which shall not exceed 30 days from the date when trading permission was given by the exchange(s).

8A.10 The SA shall open a special account with a bank to be called the “Special Account for GSO proceeds of _____ company” (hereinafter referred to as the GSO Bank account) and a special account for securities with a depository participant to be called the “Special Account for GSO shares of company” (hereinafter referred to as the GSO Demat Account).

8A.11 The money received from the applicants against the overallotment in the green shoe option shall be kept in the GSO Bank Account, distinct from the issue account and shall be used for the purpose of buying shares from the market, during the stabilization period.

8A.12 The shares bought from the market by the SA, if any during the stabilization period, shall be credited to the GSO Demat Account.

8A.13 The shares bought from the market and lying in the GSO Demat Account shall be returned to the promoters immediately, in any case not later than 2 working days after the close of the stabilization period.

8A.14 The prime responsibility of the SA shall be to stabilize post listing price of the shares. To this end, the SA shall determine the timing of buying the shares, the quantity to be bought, the price at which the shares are to be bought etc.

8A.15 On expiry of the stabilization period, in case the SA does not buy shares to the extent of shares over-allotted by the company from the market, the issuer company shall allot shares to the extent of the shortfall in dematerialized form to the GSO Demat Account, within five days of the closure of the stabilization period. These shares shall be returned to the promoters by the SA in lieu of the shares borrowed from them and the GSO Demat Account shall be closed thereafter. The company shall make a final listing application in respect of these shares to all the Exchanges where the shares allotted in the public issue are listed. The provisions of Chapter XIII shall not be applicable to such allotment.

8A.16 The shares returned to the promoters under clause 8A.13 or 8A.15, as the case may be, shall be subject to the remaining lock in period as provided in the proviso the clause 4.14.1.

8A.17 The SA shall remit an amount equal to (further shares allotted by the issuer company to the GSO Demat Account) * (issue price) to the issuer company from the GSO Bank Account. The amount left in this account, if any, after this remittance and deduction of expenses incurred by the SA for the stabilization mechanism, shall be transferred to the investor protection fund(s) of the stock exchange(s) where the shares of issuer company are listed, in equal parts if the shares are listed in more than one exchanges. The GSO Bank Account shall be closed soon thereafter.

8A.18 The SA shall submit a report to the stock exchange(s) on a daily basis during the stabilization period. The SA shall also submit a final report to SEBI in the format specified in Schedule XXIX. (Flag B)This report shall be signed by the SA and the company. This report shall be accompanied with a depository statement for the “GSO Demat Account” for the stabilization period, indicating the flow of the shares into and from the account. The report shall also be accompanied by an undertaking given by the SA and countersigned by the depository(ies) regarding confirmation of lock-in on the shares returned to the promoters in lieu of the shares borrowed from them for the purpose of the stabilization, as per the requirement specified in 8A.16.

8A.19 The SA shall maintain a register in respect of each issue having the green shoe option in which he acts as a SA. The register shall contain the following details of:
(a) in respect of each transaction effected in the course of the stabilizing action, the price, date and time
(b) the details of the promoters from whom the shares are borrowed and the number of shares borrowed from each; and
(c) details of allotments made under clause 8A.15.

8A.20 The register must be retained for a period of at least three years from the date of the end of the stabilizing period.”

8A.21 For the purpose of the Chapter VIII-A,
(a) promoter means a promoter as defined in Explanation I to clause 6.4.2.1of these guidelines.”

(b) Over allotment shall mean as an allotment or allocation of shares in excess of the size of a public issue, made by the SA out of shares borrowed from the promoters or the pre-issue shareholders or both, in pursuance of a green shoe option exercised by the company in accordance with the provisions of this Chapter.

CHAPTER XI: GUIDELINES ON BOOK BUILDING

11.1 An issuer company proposing to issue capital through book building shall comply with the following:

A) 75% Book Building Process

11.2 In an issue of securities to the public through a prospectus the option for 75% book building shall be available to the issuer company subject to the following:

(i) The option of book-building shall be available to all body corporate which are otherwise eligible to make an issue of capital to the public.

(ii)
(a) The book-building facility shall be available as an alternative to, and to the extent of the percentage of the issue which can be reserved for firm allotment, as per these Guidelines.
(b) The issuer company shall have an option of either reserving the securities for firm allotment or issuing the securities through book building process.

(iii) The issue of securities through book-building process shall be separately identified / indicated as 'placement portion category', in the prospectus.

(iv)
(a) The securities available to the public shall be separately identified as 'net offer to the public'.
(b) The requirement of minimum 25% of the securities to be offered to the public shall also be applicable.

(v) In case the book-building option is availed of, underwriting shall be mandatory to the extent of the net offer to the public.

(vi) The draft prospectus containing all the information except the information regarding the price at which the securities are offered shall be filed with the Board.

(vii) One of the lead merchant banker to the issue shall be nominated by the issuer company as a Book Runner and his name shall be mentioned in the prospectus.

(viii)
(a) The copy of the draft prospectus filed with the Board may be circulated by the Book Runner to the institutional buyers who are eligible for firm allotment and to the intermediaries eligible to act as underwriters inviting offers for subscribing to the securities.
(b) The draft prospectus to be circulated shall indicate the price band within which the securities are being offered for subscription.

(ix) The Book Runner on receipt of the offers shall maintain a record of the names and number of securities ordered and the price at which the institutional buyer or underwriter is willing to subscribe to securities under the placement portion.

(x) The underwriter(s) shall maintain a record of the orders received by him for subscribing to the issue out of the placement portion.

(xi)
(a) The underwriter(s) shall aggregate the offers so received for subscribing to the issue and intimate to the Book Runner the aggregate amount of the orders received by him.
(b) The institutional investor shall also forward its orders, if any, to the book runner.

(xii) On receipt of the information, the Book Runner and the issuer company shall determine the price at which the securities shall be offered to the public.

(xiii) The issue price for the placement portion and offer to the public shall be the same.

(xiv) On determination of the price, the underwriter shall enter into an underwriting agreement with the issuer indicating the number of securities as well as the price at which the underwriter shall subscribe to the securities.
Provided that, the Book Runner shall have an option of requiring the underwriters to the net offer to the public to pay in advance all monies required to be paid in respect of their underwriting commitment.

(xv) On determination of the issue price within two day, thereafter the prospectus shall be filed with the Registrar of Company.

(xvi) The issuer company shall open two different accounts for collection of application moneys, one for the private placement portion and the other for the public subscription.

(xvii) One day prior to the opening of the issue to the public, Book Runner shall collect from the institutional buyers and the underwriters the application forms along with the application moneys to the extent of the securities proposed to be allotted to them / subscribed by them.

(xviii)
(a) Allotments for the private placement portion shall be made on the second day from the closure of the issue.
(b) However, to ensure that the securities allotted under placement portion and public portion are pari passu in all respects, the issuer company may have one date of allotment which shall be the deemed date of allotment for the issue of securities through book building process.

(xix) In case the Book Runner has exercised the option of requiring the underwriter to the net offer to the public to pay in advance all moneys required to be paid in respect of their underwriting commitment by the eleventh day of the closure of the issue the shares allotted as per the private placement category shall be eligible to be listed.

(xx)
(a) The bidding terminals shall contain a online graphical display of demand and bid prices updated at periodic intervals, not exceeding 30 minutes. The book running lead manager shall ensure the availability of adequate infrastructure for data entry of the bids in a timely manner.
(b) Allotment of securities under the public category shall be eligible to be listed.

(xxi)
(a) In case of under subscription in the net offer to the public spillover to the extent of under subscription shall be permitted from the placement portion to the net offer to the public portion subject to the condition that preference shall be given to the individual investors.
(b) In case of under subscription in the placement portion spillover shall be permitted from the net offer to the public to the placement portion.

(xxii) The issuer company may pay interest on the application moneys till the date of allotment or the deemed date of allotment provided that payment of interest is uniformly given to all the applicants.

(xxiii)
(a) The Book Runner and other intermediaries associated with the book building process shall maintain records of the book building process.
(b) The Board shall have the right to inspect such records.

B) Offer to Public through Book Building Process

11.3 An issuer company may, subject to the requirements specified in this chapter, make an issue of securities to the public through a prospectus in the following manner:

a. 100% of the net offer to the public through book building process, or

b. 75% of the net offer to the public through book building process and 25% at the price determined through book building.

11.3.1
(ii) Reservation or firm allotment to the extent of percentage specified in these Guidelines shall not be made to categories other than the categories mentioned in sub-clause (iii) below.

(iii) Book Building shall be for the portion other than the promoters contribution and the allocation made to:
(a) ‘permanent employees of the issuer company and in the case of a new company the permanent employees of the promoting companies';

(b) ‘share holders of the promoting companies in the case of a new company and shareholders of group companies in the case of an existing company’ either on a ‘competitive basis’ or on a ‘firm allotment basis’.

(c) persons who, on the date of filing of the draft offer document with the Board, have business association, as depositors, bondholders and subscribers to services, with the issuer making an initial public offering, provided that allotment to such persons shall not exceed 5% of the issue size.

Provided further that, no reservation shall be made for the issue management team, syndicate members, their promoters, directors and employees and for the group/associate companies of issue management team and syndicate members and their promoters, directors and employees.

(iv) The issuer company shall appoint an eligible Merchant Banker(s) as book runner(s) and their name(s) shall be mentioned in the draft prospectus.
(a) The issuer company shall enter into an agreement with one or more of the Stock Exchange(s) which have the requisite system of on-line offer of securities. The agreement shall specify inter-alia, the rights, duties, responsibilities and obligations of the company and stock exchange(s) inter se. The agreement may also provide for a dispute resolution mechanism between the company and the stock exchange.

(b) The company may apply for listing of its securities on an exchange other than the exchange through which it offers its securities to public through the on-line system.

(v) The Lead Merchant Banker shall act as the Lead Book Runner.
(a) In case the issuer company appoints more than one merchant banker(s), the names of all such merchant bankers(s) who have submitted the due diligence certificate to SEBI, may be mentioned on the front cover page of the prospectus. A disclosure to the effect that the investors may contact any of such merchant bankers(s), for any complaint pertaining to the issue" shall be made in the prospectus, after the "risk factors".

(b) The lead book runner/issuer may designate, in any manner, the other Merchant Banker(s), subject to the following
1. the inter-se allocation of responsibilities amongst the merchant bankers shall be disclosed in the prospectus on the page giving the details of the issue management team;
2. A coordinator shall be appointed amongst the lead book runners, for the purpose of co-ordination with SEBI.
3. the names of only those merchant bankers who have signed the inter se allocation of responsibilities shall be mentioned in the offer document on the page where the details of the issue management team is given.

(vi) The primary responsibility of building the book shall be that of the Lead Book Runner.

(vii) The Book Runner(s) may appoint those intermediaries who are registered with the Board and who are permitted to carry on activity as an 'Underwriter' as syndicate members.

(a) The Book Runner(s)/syndicate members shall appoint brokers of the exchange, who are registered with SEBI, for the purpose of accepting bids, applications and placing orders with the company and ensure that the brokers so appointed are financially capable of honoring their commitments arising out of defaults of their clients/investors, if any.

(b) For the purposes of this Chapter, the brokers, so appointed accepting applications and application monies, shall be considered as 'bidding/collection centers'.

(c) The broker/s so appointed, shall collect the money from his/their client for every order placed by him/them and in case the client/investors fails to pay for shares allocated as per the Guidelines, the broker shall pay such amount.

(d) The company shall pay to the broker/s a commission/fee for the services rendered by him/them. The exchange shall ensure that the broker does not levy a service fee on his clients/investors in lieu of his services.

(viii) The draft prospectus containing all the disclosures as laid down in Chapter VI except that of price and the number of securities to be offered to the public shall be filed by the Lead Merchant Banker with the Board.
Provided that, the total size of the issue shall be mentioned in the draft prospectus.

(a) The red herring prospectus shall disclose, either the floor price of the securities offered through it or a price band along with the range within which the price can move, if any.

Provided that, in case of a further public issue of a class of securities which is already listed on a recognised stock exchange, it shall not be necessary to disclose the floor price or price band in the red-herring prospectus if the same is disclosed by way of an announcement made by the issuer or the merchant banker at least one day before the opening of the bid in all those newspapers where pre issue advertisement was released.

Provided further that, where the issuer opts not to make the disclosure of the price band or floor price in the red-herring prospectus in terms of the foregoing proviso, the following shall be additionally disclosed in the red-herring prospectus:
(a) a statement that the floor price or price band, as the case may be, shall be disclosed one before the opening of the bid;

(b) a statement that the investors may be guided in the meantime by the secondary market prices;

(c) names and editions of the newspapers where the announcement of the floor price or price band would be made;

(d) names of websites (with address), journals or other media in which the said announcement will be made.)

(viii)
(b) In case the red herring prospectus discloses the price band, the lead book runner shall ensure compliance with the following conditions:
(a) The cap of the price band should not be more than 20% of the floor of the band; i.e. cap of the price band shall be less than or equal to 120% of the floor of the price band

(b) The price band can be revised during the bidding period in which case the maximum revision on either side shall not exceed 20% i.e. floor of price band can move up or down to the extent of 20% of floor of the price band disclosed in the red herring prospectus and the cap of the revised price band will be fixed in accordance with Clause (a) above;

(c) Any revision in the price band shall be widely disseminated by informing the stock exchanges, by issuing press release and also indicating the change on the relevant website and the terminals of the syndicate members.

(d) In case the price band is revised, the bidding period shall be extended for a further period of three days, subject to the total bidding period not exceeding thirteen days.

(e) The manner in which the shortfall, if any, in the project financing, arising on account of lowering of price band to the extent of 20% will be met shall be disclosed in the red herring prospectus. It shall also be disclosed that the allotment shall not be made unless the financing is tied up.

(ix)
(a) In case of appointment of more than one Lead Merchant Banker or Book Runner for book building, the rights, obligations and responsibilities of each should be delineated.

(b) In case of an under subscription in an issue, the shortfall shall have to be made good by the Book Runner(s) to the issue and the same shall be incorporated in the inter se allocation of responsibility given in Schedule II.

(x) (Deleted)

(xi)
(a) (Deleted)
(b) The issuer company shall circulate the application forms to the Brokers.

(xii) (Deleted)

(xiii) The pre-issue obligations and disclosure requirements as specified in Chapter V and VI respectively of these Guidelines, shall be applicable to issue of securities through book building unless stated otherwise in this Chapter.

(xiv) The Book Runner(s) and the issuer company shall determine the issue price based on the bids received through the 'syndicate members'.

(xiv)(a) Retail individual investors may bid at "cut off" price instead of their writing the specific bid prices in the bid forms.

(xv) On determination of the price, the number of securities to be offered shall be determined (issue size divided by the price which has been determined.

(xvi) Once the final price (cut-off price) is determined all those bidders whose bids have been found to be successful (i.e. at and above the final price or cut-off price) shall become entitle for allotment of securities.

(xvii) No incentive, whether in cash or kind, shall be paid to the investors who have become entitled for allotment of securities.

(xvii)
(a) The broker may collect an amount to the extent of 100% of the application money as margin money from the clients/investors before he places an order on their behalf. The margin collected from categories other than Qualified Institutional Buyers shall be uniform across the book runner(s)/syndicate members, for each such category.

(aa) The broker/syndicate member shall collect an amount of not less than ten percent of the application money as margin money in respect of bids placed by qualified institutional buyers.

(b) Bids for securities beyond the investment limit prescribed under relevant laws shall not be accepted by the syndicate members/brokers from any category of clients/ investors.

(c) The lead book runner may reject a bid placed by a qualified institutional buyer for reasons to be recorded in writing provided that such rejection shall be made at the time of acceptance of the bid and the reasons there for shall be disclosed to the bidders. Necessary disclosures in this regard shall also be made in the offer document.

(xviii) On determination of the entitlement under sub-clause (xvi), the information regarding the same (i.e. the number of securities which the investor becomes entitled) shall be intimated immediately to the investors.

(xix) The final prospectus containing all disclosures as per these Guidelines including the price and the number of securities proposed to be issued shall be filed with the Registrar of Companies.

(xx) Arrangement shall be made by the issuer for collection of the applications by appointing mandatory collection centers as per these Guidelines.
(a) The bidding terminals shall contain a online graphical display of demand and bid prices updated at periodic intervals, not exceeding 30 minutes. The book running lead manager shall ensure the availability of adequate infrastructure for data entry of the bids in a timely manner.

(xxi) The investors who had not participated in the bidding process or have not received intimation of entitlement of securities may also make an application.

11.3.2 Additional Disclosures
Apart from meeting the disclosure requirements as specified in these Guidelines, the following disclosures shall be suitably made:

(i) The particulars of syndicate members, brokers, registrars, bankers to the issue, etc.

(ii) The following statement shall be given under the 'basis for issue price':-
"The issue price has been determined by the Issuer in consultation with the Book Runner(s), on the basis of assessment of market demand for the offered securities by way of Book-building."

(iii) The following accounting ratios shall be given under the basis for issue price for each of the accounting periods for which the financial information is given
1. EPS, pre-issue, for the last three years (as adjusted for changes in capital).
2. P/E pre-issue.
3. Average return on net-worth in the last three years.
4. Net-Asset value per share based on last balance sheet.
5. Comparison of all the accounting ratios of the issuer company as mentioned above with the industry average and with the accounting ratios of the peer group (i.e. companies of comparable size in the same industry. (Indicate the source from which industry average and

accounting ratios of the peer group has been taken.)
6. The accounting ratios disclosed in the offer document shall be calculated after giving effect to the consequent increase of capital on account of compulsory conversions outstanding, as well as on the assumption that the options outstanding, if any, to subscribe for additional capital shall be exercised.

(v) the proposed manner of allocation among respective categories of investors, in the event of under subscription.

11.3.3 Underwriting
(i) In case the issuer company is making an issue of securities:
a. under sub clause(a) of clause 11.3, 100% of the net offer to the public;
b. under sub clause (b) of clause 11.3, the book built portion - 75% of the net offer to the public, shall be compulsorily underwritten by the syndicate members/book runner(s).

Provided that, nothing contained in sub-clause (i) shall apply to 50% of the net offer to the public, mandatorily to be allotted to the Qualified Institutional Buyers under proviso to clause 2.2.2 or clause 2.3.2 of these guidelines, in case the company is making an issue of securities under clause 2.2.2 or clause 2.3.2, as the case may be.

(ii)
(a) The 'syndicate members' shall enter into an underwriting agreement with the Book Runner(s) indicating the number of securities which they would subscribe at the predetermined price.
(b) The Book Runner(s) shall in turn enter into an underwriting agreement with the Issuer company.
(iii) In the event of the syndicate members not fulfilling their underwriting obligations the Book Runner(s) shall be responsible for bringing in the amount devolved.

11.3.4 Procedure for bidding:
11.3.4.1 The method and process of bidding shall be subject to the following:

(i) Bid shall be open for at least three working days and not more than seven working days), which may be extended to a maximum of ten working days in case the price band is revised in accordance with clause 11.3.1.

(ii) The advertisement mentioned at clause 11.3.1 (xi) shall also contain the following:
(a) the date of opening and closing of the bidding (not less than 5 days).
(b) the names and addresses of the syndicate members as well as the bidding terminals for accepting the bids.
(c) the method and process of bidding.

(iii) Bidding shall be permitted only if an electronically linked transparent facility is used.

(iv) The ‘syndicate members’ shall be present at the bidding centers so that at least one electronically linked computer terminal at all the bidding centers is available for the purpose of bidding.

(v)
(a) The number of bidding centers, in case 75% of the net offer to the public is offered through the book building, process shall not be less than the number of mandatory collection centers as specified in these regulations. In case 100% of the net offer to the public is made through book building process, the bidding centers shall be at all the places, where the recognised stock exchanges are situated.

(b) The same norms as applicable for collection centers shall be applicable for the bidding centers also.

(vi) Individual as well as qualified institutional buyers shall place their bids only through the ‘brokers’ who shall have the right to vet the bids.
The applicant shall enclose the proof of DP ID and Client ID along with the application, while making bid

(vi)
(a) During the period the issue is open to the public for bidding, the applicants may approach the brokers of the stock exchange/s through which the securities are offered under on-line system, to place an order for bidding to the securities. Every broker shall accept orders from all clients/investors who place orders through him.
(b)
(c)
(d)

(vii) The investors shall have the right to revise their bids provided that Qualified Institutional Buyers shall not be allowed to withdraw their bids after the closure of the bidding.

(viii) Bidding Form
(a) There shall be a standard bidding form to ensure uniformity in bidding and accuracy.
(b) The bidding form shall contain information about the investor, the price and the number of securities that the investor wishes to bid.
(c) The bidding form before being issued to the bidder shall be serially numbered at the bidding centers and date and time stamped.
(d) The serial number may be system generated or stamped with an automatic numbering machine.
(e) The bidding form shall be issued in duplicate signed by the investor and countersigned by the syndicate member, with one form for the investor and the other for the syndicate member(s)/Book Runner(s).

(ix) At the end of each day of the bidding period the demand shall be shown graphically on the terminals for information of the syndicate members as well as the investors.

(x) The identities of the Qualified Institutional Buyers making the bidding, shall not be made public)

(xi)

(xii) The stock exchanges shall display data pertaining to book built issues in a uniform format, interalia giving category wise details of bids received Indicative format is given in Schedule XXX. The data pertaining to an issue shall be displayed on the site for a period of at least three days after closure of bids.

11.3.5 Allocation / Allotment Procedure

(i) In case an issuer company makes an issue of 100% of the net offer to public through 100% book building process:
a) not less than 35% of the net offer to the public shall be available for allocation to retail individual investors;
b) not less than 15% of the net offer to the public shall be available for allocation to non institutional investors i.e. investors other than retail individual investors and Qualified Institutional Buyers;
c) not more than 50% of the net offer to the public shall be available for allocation to Qualified Institutional Buyers

Provided that, 50% of net offer to public shall be mandatorily allotted to the Qualified Institutional Buyers, in case the issuer company is making a public issue under Clause 2.2.2 and 2.3.2 of these guidelines

Provided further that, in respect of issues made under Rule 19(2)(b) of Securities Contract (Regulation) Rules 1957, with 60% mandatory allocation to Qualified Institutional Buyers, the percentage allocation to retail individual investors and non institutional investors in terms of clause 11.3.5(i)(a) shall be 30% and 10% respectively.

(ii) In case an issuer company makes an issue of 75% of the net offer to public through book building process and 25% at the price determined through book building

a. in the book built portion, not less than 25% of the net offer to the public, shall be available for allocation to non Qualified Institutional Buyers and not more than 50% of the net offer to the public shall be available for allocation to Qualified Institutional Buyers.

b. the balance 25% of the net offer to the public, offered at a price determined through book building, shall be available only to retail individual investors who have either not participated or have not received any allocation, in the book built portion.

Provided that, 50% of net offer to public shall be mandatorily allotted to the Qualified Institutional Buyers, in case the issuer company is making a public issue under Clause 2.2.2 and 2.3.2 of these guidelines.

(ii-a) Out of the portion available for allocation to qualified institutional buyers under sub clause (i) or (ii) or any proviso thereof, as the case may be, 5% shall be allocated proportionately to mutual funds. Mutual fund applicants shall also be eligible for proportionate allocation under the balance available for Qualified Institutional Buyers as illustrated in Schedule XIX-A.

(iii) Allotment to retail individual investors, non-institutional investors and qualified institutional buyers shall be made proportionately as illustrated in Schedule XVIII.

(iv) In the event of under subscription in any category, the undersubscribed portion shall be allocated to the bidders as per disclosures made in terms of clause 11.3.2(v).

Provided that, the unsubscribed portion in the "Qualified Institutional Buyer" category, shall not be available for subscription to other categories, in case the issuer company has made an issue of securities under clause 2.2.2 or clause 2.3.2 of these guidelines.

(v)
(a) (Deleted)
(b) (Deleted)

(vi) Allotment shall be made not later than 15 days from the closure of the issue failing which interest at the rate of 15% shall be paid to the investors.

(vii) Schedule XX may be referred to for Clarificatory Examples for issue size and allocation has been specified in Schedule XX.

(viii) Model Time Frame for Book Building is specified in Schedule XXI.

(ix) The broker shall refund the margin money collected earlier, within 3 days of receipt of basis of allocation, to the applicants who did not receive allocation

(x)
(xi)
(xii)
(xiii)
(xiv)

(xv) On payment and receipt of the sum payable on application for the amount towards minimum subscription, the company shall allot the shares to the applicants as per these Guidelines.

(xvi)
(xvii)
(xviii)
(xix)
(xx)
(xxi)
(xxii)

(xxiii) In case the issuer company has made an issue of 75% of the net offer to public through book building process and 25% at the price determined through book building:
a) the offer of 25% of the net offer to the public, made at a price determined through book building, shall open within 15 days from the date of closure of bidding;
b) the offer for subscription to the public, shall remain open for a period of at least 3 working days after completing all the requirements of advertisement and despatch of issue material to all the stock exchanges;
c) during the time when the offer is open, the investors who have received an intimation of entitlement of securities under sub clause (xviii) of clause 11.3.1, shall submit the application forms along with the application moneys;
d) the other retail individual investors who had not participated in the bidding process or have not received intimation of entitlement of securities under sub clause (xviii) of clause 11.3.1 may also make an application."

11.3.6 Maintenance of Books and Records
(i) A final book of demand showing the result of the allocation process shall be maintained by the book runner/s.
(ii) The Book Runner/s and other intermediaries in the book building process associated shall maintain records of the book building prices.
(iii) The Board shall have the right to inspect the records, books and documents relating to the Book building process and such person shall extend full co-operation.

11.4 Applicability to fast track issues

11.4.1 Unless specified otherwise in this Chapter and unless the context otherwise requires, all references in this Chapter to “draft prospectus” shall be construed as having been made to “red herring prospectus”, in application to fast track issues.

11.4.2 Nothing contained in sub-clause (vi) of clause 11.2 or sub-clause (viii) of clause 11.3.1 shall apply to a fast track issue.

CHAPTER XIII: GUIDELINES FOR PREFERENTIAL ISSUES

13.0 The preferential issue of equity shares/ Fully Convertible Debentures (FCDs)/ Partly Convertible Debentures (PCDs) or any other financial instruments which would be converted into or exchanged with equity shares at a later date, by listed companies whose equity share capital is listed on any stock exchange, to any select group of persons under Section 81(1A) of the Companies Act 1956 on private placement basis shall be governed by these guidelines.

13.1 Such preferential issues by listed companies by way of equity shares/ Fully Convertible Debentures (FCDs)/ Partly Convertible Debentures (PCDs) or any other financial instruments which would be converted into / exchanged with equity shares at a later date, shall be made in accordance with the pricing provisions mentioned below:

13.1.1 Pricing of the issue

13.1.1.1 Where the equity shares of a company have been listed on a stock exchange for a period of six months or more as on the relevant date, the issue of shares on preferential basis shall be made at a price not less than higher of the following:
i) The average of the weekly high and low of the closing prices of the related shares quoted on the stock exchange during the six months preceding the relevant date;
OR
ii) The average of the weekly high and low of the closing prices of the related shares quoted on a stock exchange during the two weeks preceding the relevant date.

13.1.1.2 Where the equity shares of a company have been listed on a stock exchange for a period of less than six months as on the relevant date, the issue of shares on preferential basis can be made at a price not less than the higher of the following:
i) The price at which shares were issued by the company in its IPO or the value per share arrived at in a scheme of arrangement under sections 391 to 394 of the Companies Act, 1956, pursuant to which the shares of the company were listed, as the case may be;
OR
a. The average of the weekly high and low of the closing prices of the related shares quoted on the stock exchange during the period shares have been listed preceding the relevant date;
OR
b. The average of the weekly high and low of the closing prices of the related shares quoted on a stock exchange during the two weeks preceding the relevant date."
Provided that on completing a period of six months of being listed on a stock exchange, the company shall re compute the price of the shares in accordance with the provisions mentioned in sub-clause (i) of clause 13.1.1.1 and if the price at which shares were allotted on a preferential basis under clause 13.1.1.2 was lower than the price so
Re-computed, the difference shall be paid by the allottees to the company.

Explanation:

a) "relevant date" for the purpose of clauses 13.1.1.1 and 13.1.1.2 means the date thirty days prior to the date on which the meeting of general body of shareholders is held, in terms of Section 81(1A) of the Companies Act, 1956 to consider the proposed issue; provided however that in respect of shares issued on preferential basis pursuant to a scheme approved under the Corporate Debt Restructuring framework of Reserve Bank of India, the date of approval of the Corporate Debt Restructuring package shall be the relevant date.

b) "stock exchange" for the purpose of clauses 13.1.1.1 and 13.1.1.2 means any of the recognised stock exchanges in which the shares are listed and in which the highest trading volume in respect of the shares of the company has been recorded during the preceding six months prior to the relevant date.

13.1.2 Pricing of shares arising out of warrants, etc.

13.1.2.1

(a) Where warrants are issued on a preferential basis with an option to apply for and be allotted shares, the issuer company shall determine the price of the resultant shares in accordance with Clause 13.1.1.1 above

(b) The relevant date for the above purpose may, at the option of the issuer be either the one referred in explanation (a) to Clause 13.1.1.1 above or a date 30 days prior to the date on which the holder of the warrants becomes entitled to apply for the said shares.

13.1.2.2 The resolution to be passed in terms of Section 81(1A) shall clearly specify the relevant date on the basis of which price of the resultant shares shall be calculated.

13.1.2.3

(a) An amount equivalent to at least ten percent of the price fixed in terms of Clause 13.1.1.1 above shall become payable for the warrants on the date of their allotment.

(b) The amount referred to in sub-clause (a), shall be adjusted against the price payable subsequently for acquiring the shares by exercising an option for the purpose.

(c) The amount referred to in sub-clause (a) shall be forfeited if the option to acquire shares is not exercised.

13.1.3 Pricing of shares on conversion

13.1.3.1 Where PCDs/ FCDs/ other convertible instruments, are issued on a preferential basis, providing for the issuer to allot shares at a future date, the issuer shall determine the price at which the shares could be allotted in the same manner as specified for pricing of shares allotted in lieu of warrants as indicated in Paras 13.1.2.1& 13.1.2.2 above.

13.1A The explanatory statement to the notice for the general meeting in terms of Section 173 of the Companies Act, 1956 shall contain:

i. the object/s of the issue through preferential offer,

ii. intention of promoters/ directors/ key management persons to subscribe to the offer,

iii. shareholding pattern before and after the offer,

iv. proposed time within which the allotment shall be complete

v. the identity of the proposed allottees and the percentage of post preferential issue capital that may be held by them.

vi. in case of a preferential allotment to which clause 13.1.1.2 is applicable, requirements specified in proviso to clause 13.1.1.2 and proviso mentioned after sub-clause (e) of clause 13.3.1.

13.1B A listed company shall not make any preferential issue of equity shares, Fully Convertible Debentures, Partly Convertible Debentures or any other instrument which may be converted into or exchanged with equity shares at a latter date if the same is not in compliance with the conditions for continuous listing.

13.1C A listed company shall not make any preferential allotment of equity shares, FCDs, PCDs or any other financial instrument which may be converted into or exchanged with equity shares at a later date unless it has obtained the Permanent Account Number of the proposed allottees.

13.2 Currency of financial instruments

13.2.1 In case of Warrants/ PCDs/ FCDs/ or any other financial instruments with a provision for the allotment of equity shares at a future date, either through conversion or otherwise, the currency of the instruments shall not exceed beyond 18 months from the date of issue of the relevant instrument.

13.3 Non-transferability of financial instruments

13.3.1

(a) The instruments allotted on a preferential basis to the promoter / promoter group as defined in Chapter VI in Explanation I, II and III to clause 6.8.3.2 of these guidelines, shall be subject to lock-in of 3 years from the date of their allotment.

(b) In any case, not more than 20% of the total capital of the company, including capital brought in by way of preferential issue, shall be subject to lock-in of three years from the date of allotment.

(c) In addition to the requirements for lock in of instruments allotted on preferential basis to promoters/ promoter group as per clause 13.3.1 (a) and (b), the instruments allotted on preferential basis to any person including promoters/ promoters group shall be locked-in for a period of one year from the date of their allotment.

(d) The lock-in on shares acquired by conversion of the convertible instrument/exercise of warrants, shall be reduced to the extent the convertible instrument warrants have already been locked-in.

(e) the lock-in period in respect of the shares issued on preferential basis pursuant to a scheme approved under Corporate Debt Restructuring framework of Reserve Bank of India, shall commence from the date of allotment and shall continue for a period of one year and in case of allotment of partly paid up shares the lock-in period shall commence from the date of allotment and continue for a period of one year from the date when shares become fully paid up.

Provided that, where any amount payable by the allottee of shares under the proviso to clause 13.1.1.2 is not paid till the expiry of lock-in period mentioned in sub-clauses (a) to (e) above, lock-in period in respect of the shares issued to such allottee shall continue till the time the company receives such amount from such allottee.

(f) no listed company shall make preferential issue of equity shares /warrants / convertible instruments to any person unless the entire shareholding of such persons in the company, if any, is held by him in dematerialized form.

(g) where the shares / warrants/ convertible instruments are issued on preferential basis, the entire pre preferential allotment shareholding of such allottees shall be under lock – in from the relevant date up to a period of six months from the date of preferential allotment.

(h) where the shares / warrants / convertible instruments are issued on preferential basis, the shareholders who have sold their shares during the six months period prior to the relevant date shall not be eligible for allotment of shares on preferential basis.

Explanation:
(a) For the purpose of this clause “total capital” of the company shall mean-
(i) equity share capital issued by way of public/ rights issue including equity shares emerging at a later date out of any convertible securities/ exercise of warrants and
(ii) equity shares or any other security convertible at a later date into equity issued on a preferential basis in favour of promoter/ promoter groups.

(b)
(i) For computation of 20% of the total capital of the company, the amount of minimum promoters’ contribution held and locked-in, in the past as per guidelines shall be taken into account.
(ii) The minimum promoters’ contribution shall not again be put under fresh lock-in, even though it is considered for computing the requirement of 20% of the total capital of the company, in case the said minimum promoters’ contribution is free of lock-in at the time of the preferential issue.

13.3.2 These locked in shares/instruments may be transferred to and amongst promoter/ promoter group or to a new promoter(s) or person(s) in control of the company, subject to continuation of lock-in in the hands of transferee(s) for the remaining period and compliance of Securities and Exchange Board of India (Substantial Acquisition of shares and Takeovers) Regulations,1997, as applicable.

13.4 Currency of shareholders resolutions

13.4.1 Allotment pursuant to any resolution passed at a meeting of shareholders of a company granting consent for preferential issues of any financial instrument, shall be completed within a period of fifteen days from the date of passing of the resolution.

Provided that, where the allotment on preferential basis is pending on account of pendency of any approval of such allotment by any regulatory authority or the Central Government, the allotment shall be completed within 15 days from the date of such approval.

13.4.2 The equity shares and securities convertible into equity shares at a later date, allotted in terms of the above said resolution shall be made fully paid up at the time of their allotment.
Provided that, payment in case of warrants shall be made in terms of clause 13.1.2.3 above.

13.4.2A Nothing contained in clauses 13.4.1 and 13.4.2 shall apply in case of allotment of shares and securities convertible into equity shares at a later date on preferential basis pursuant to a scheme of corporate debt restructuring as per the Corporate Debt Restructuring framework specified by the Reserve Bank of India.

13.4.3 If allotment of instruments and dispatch of certificates is not completed within fifteen days from the date of such resolution, a fresh consent of the shareholders shall be obtained and the relevant date referred to in explanation (a) in paragraph 13.1.1.1 above will relate to the new resolution.

13.5 Other Requirements

13.5.1

(a) In case of every issue of shares/ warrants/ FCDs/ PCDs/ or other financial instruments having conversion option, the statutory auditors of the issuer company shall certify that the issue of said instruments is being made in accordance with the requirements contained in these guidelines.

(b) Copies of the auditors certificate shall also be laid before the meeting of the shareholders convened to consider the proposed issue.

(c) In case of preferential allotment of shares to promoters, their relatives, associates and related entities, for consideration other than cash, valuation of the assets in consideration for which the shares are proposed to be issued shall be done by an independent qualified valuer and the valuation report shall be submitted to the exchanges on which shares of the issuer company are listed.

Explanation:

For the purpose of this clause the word valuer shall have the same meaning as assigned to the term under clause (r) of sub-regulation (1) of Regulation 2 of the SEBI (Issue of Sweat Equity) Regulations, 2002.

13.5A The details of all monies utilised out of the preferential issue proceeds shall be disclosed under an appropriate head in the balance sheet of the company indicating the purpose for which such monies have been utilised. The details of unutilised monies shall also be disclosed under a separate head in the balance sheet of the company indicating the form in which such unutilised monies have been invested.

13.6 Preferential allotments to FIIs

13.6.1 Preferential allotments, if any to be made in case of Foreign Institutional Investors, shall also be governed by the guidelines issued by the Government of India/ Board/ Reserve Bank of India on the subject.

13.7 Non-Applicability of the guidelines

13.7.1 Clauses 13.1 to 13.5 shall not be applicable in the following cases:
(i) where the further shares are allotted in pursuance to the merger and amalgamation scheme approved by the High court.

(ii)
(a) where further shares are allotted to a person / group of persons in accordance with the provisions of rehabilitation packages approved by BIFR.
(b) In case, such persons are promoters or belong to promoter group as defined in Explanation I and II to clause 6.8.3.2 of Chapter VI of these guidelines, the lock-in provisions shall continue to apply unless otherwise stated in the BIFR order.

(iii) where further shares are allotted to All India public financial institutions in accordance with the provision of the loan agreements signed prior to August 4, 1994.

13.7.2 Clauses 13.1 and 13.3 shall not be applicable to shares allotted to any financial institution within the meaning of sub-clauses (ia) and (ii) of clause (h) of section 2 of the Recovery of Debts due to Banks and Financial Institutions Act, 1993 (51 of 1993).

CHAPTER XIII-A: GUIDELINES FOR QUALIFIED INSTITUTIONS PLACEMENT

13A.1 Applicability

13A.1.1 This Chapter shall apply to any issue of equity shares / fully convertible debentures (FCDs) / partly convertible debentures (PCDs) or any securities other than warrants, which are convertible into or exchangeable with equity shares at a later date (hereinafter referred to as "specified securities"), made to Qualified Institutional Buyers (QIBs) pursuant to this chapter, by a listed company which fulfills the following conditions:

(a) its equity shares of the same class were listed on a stock exchange having nation wide trading terminals for a period of at least one year as on the date of issuance of notice to its shareholders for convening the meeting referred to in Explanation (a) to clause 13A.3.1;

and

(b) it is in compliance with the prescribed minimum public shareholding requirements of the listing agreement.
Explanation:
(i) The term "Qualified Institutional Buyers" shall have the same meaning as assigned to it in clause 2.2.2B (v).
(ii) For the purpose of sub-clause (a) of clause 13A.1.1, securities that are convertible into or exchangeable with securities which are listed on a stock exchange having nation wide trading terminals, shall be deemed to be securities of the class into which they are convertible or with which they are exchangeable.

13A.2 Investors

13A.2.1 Only QIBs shall be eligible for allotment of specified securities issued pursuant to this Chapter.

13A.2.2 Minimum of 10 per cent of specified securities issued pursuant to this chapter shall be allotted to mutual funds.

13A.2.3 If no mutual fund is agreeable to take up the minimum portion mentioned in clause 13A.2.2 or any part thereof, such minimum portion or part thereof may be allotted to other QIBs.

13A.2.4 No allotment shall be made under this chapter, either directly or indirectly, to any QIB being a promoter or any person related to promoter/s.
Explanation:
For the purpose of this clause, QIB who has all or any of the following rights shall also be deemed to be a person related to promoter/s:
(a) rights under a shareholders' agreement or voting agreement entered into with promoters or persons related to the promoters;

(b) veto rights; or
(c) right to appoint any nominee director on the board of the issuer.

Provided that, a QIB who does not hold any shares in the issuer and who has acquired the aforesaid rights in the capacity of a lender shall not be deemed to be a person related to promoter/s.

13A.2.5 Investors shall not be allowed to withdraw their bids after the closure of issue.

13A.3 Pricing

13A.3.1 An issue of specified securities made under this Chapter shall be made at a price not less than the higher of the following:
i) The average of the weekly high and low of the closing prices of the related shares quoted on the stock exchange during the six months preceding the relevant date;
OR
ii) The average of the weekly high and low of the closing prices of the related shares quoted on the stock exchange during the two weeks preceding the relevant date.

Explanation:
a) "relevant date" for the purpose of this clause means the day which is thirty days prior to the date on which the meeting of general body of shareholders is held, in terms of sub-section (1A) of Section 81 of the Companies Act, 1956 or other applicable provision to consider the proposed issue.
b) "stock exchange" for the purpose of this clause means any of the recognised stock exchanges in which the equity shares of the issuer of the same class are listed and in which the highest trading volume in such shares has been recorded during the six months immediately preceding the relevant date.

13A.3.2 Pricing of shares on conversion

13A.3.2.1 Where securities which are convertible into or exchangeable with equity shares at a later date are issued pursuant to this Chapter, the issuer shall determine the price of the resultant shares in terms of clause 13A.3.1 above, subject to clause 13A.3.2.2.

13A.3.2.2 The relevant date for the above purpose may, at the option of the issuer, be either the one referred in Explanation (a) to clause 13A.3.1 or a day thirty days prior to the date on which the holder of the securities which are convertible into or exchangeable with equity shares at a later date becomes entitled to apply for the said shares.

13A.3.3 The specified securities allotted pursuant to this Chapter shall be made fully paid up at the time of their allotment.

13A.4 Adjustments in price

13A.4.1 The prices considered for determination of issue price of specified securities as provided in clause 13A.3.1 and 13A.3.2.1 shall be subject to appropriate adjustments if the issuer company:

a. makes an issue of shares by way of capitalization of profits or reserves (other than by way of a dividend on shares);

b. makes an issue of shares on rights basis

c. consolidates its outstanding shares into a smaller number of shares;

d. divides its outstanding shares (including by way of stock split);

e. re-classifies any of its shares into other securities of the company;

f. is involved in such other similar events or circumstances, which in the opinion of the concerned Stock Exchange, requires adjustments.

13A.5 Currency of the Security

13.A.5.1 In case of a security which is convertible into or exchangeable with equity shares at a later date, the same may be converted/ exchanged in to equity shares at any time after the date of allotment of the security, no later than sixty months from the date of allotment.

13.A.6 Shareholders' Resolution

13A.6.1 Allotment of specified securities issued pursuant to this Chapter shall be completed within twelve months from the date of passing of the resolution in terms of sub-section (1A) of Section 81 of the Companies Act, 1956 or any other applicable provision.

13A.6.2 The resolution passed at the meeting of shareholders referred to in clause 13A.6.1 above shall specify that the allotment is proposed to be made to QIBs pursuant to this Chapter and shall also specify the relevant date on the basis of which price of the resultant shares as specified under clause 13A.3.2.2 shall be determined.

13A.6.3 The placements made pursuant to authority of the same shareholders' resolution shall be separated by at least six months between each placement.

13A.7 Placement Document

13A.7.1 Specified securities shall be issued pursuant to this Chapter on the basis of a placement document.

13A.7.2 The placement document shall contain all material information, including the information specified in Schedule XXIA.

13A.7.3 The placement document shall be a private document provided to select investors, through serially numbered copies.

13A.7.4 The placement document shall also be placed on the website of the concerned stock exchange and of the issuer with a disclaimer to the effect that it is in connection with an issue to QIBs under this Chapter and that no offer is being made to the public or to any other category of investors.

13A.7.5 A copy of the placement document shall be filed with the Board for record purpose within 30 days of the allotment of specified securities.

13A.8 Number of allottees

13A.8.1 The minimum number of allottees for each placement of specified securities made pursuant to this Chapter shall not be less than:
(a) two, where the issue size is less than or equal to Rs. 250 crores;
(b) five, where the issue size is greater than Rs. 250 crores.

Provided that, no single allottee shall be allotted more than 50% of the issue size.

Provided further that, QIBs belonging to the same group or those who are under common control shall be deemed to be a single allottee for the purpose of this clause.
Explanation:
For the purpose of this clause –
i. The expression ‘QIBs belonging to the same group’ shall derive meaning from the concept of ‘companies under the same group’ as provided in sub-section (11) of Section 372 of the Companies Act, 1956;
ii. “Control” shall have the same meaning as is assigned to it by clause (c) of Regulation 2 of the Securities and Exchange Board of India (Substantial Acquisition of Shares and Takeovers) Regulations, 1997.

13A.9 Restrictions on amount raised

13A.9.1 The aggregate of the proposed placement and all previous placements made in the same financial year pursuant to this Chapter shall not exceed five times the net worth of the issuer as per the audited balance sheet of the previous financial year.

13A.10 Transferability of specified securities

13A.10.1 Specified securities allotted pursuant to this Chapter shall not be sold by QIB for a period of one year from the date of allotment, except on a recognised stock exchange.
Explanation:
For the purpose of this clause, it is clarified that any sale by way of a bulk or block transaction in accordance with the procedures prescribed by the Board and the stock exchange, shall also be treated as a sale on a recognised stock exchange.

13A.11 Obligations of Merchant Bankers

13A.11.1 Any issue and allotment of specified securities pursuant to this Chapter shall be managed by Merchant Banker(s) registered with SEBI.

13A.11.2 The merchant banker shall exercise due diligence.

13A.11.3 The merchant banker shall furnish to each stock exchange on which the same class of shares or other securities are listed, a due diligence certificate stating that the issue is being made pursuant to this Chapter and complies with its requirements, along with the application made for seeking in-principle approval for listing of the specified securities.

13A.11.4 The merchant banker shall also furnish to each stock exchange on which the same class of shares or other securities are listed, the documents, undertakings, etc, if any, specified in the listing agreement for the purpose of seeking in-principle approval and final permission from Stock Exchanges for listing of the specified securities.

13A.12 Issuer Certification

13A.12.1 The issuer shall furnish a copy of the placement document to each stock exchange on which the same class of shares or other securities are listed.

13A.12.2 The issuer shall also furnish to each stock exchange on which the same class of shares or other securities are listed, a certificate stating that the issue is being made pursuant to this Chapter and complies with its requirements, along with the application made for seeking in principle approval for listing of the specified securities.

13A.12.3 The issuer shall also furnish to each stock exchange on which the same class of shares or other securities are listed, the documents, undertakings, etc, if any, specified in the listing agreement for the purpose of seeking in-principle approval and final permission from Stock Exchanges for listing of the specified securities.

13A.13 Non-applicability of Chapter XIII

13A.13.1 Nothing contained in Chapter XIII shall apply to an issue of specified securities made pursuant to this Chapter.

CHAPTER XV: GUIDELINES FOR BONUS ISSUES

15.0 A listed company proposing to issue bonus shares shall comply with the following:

15.1.1

(a) No company shall, pending conversion of FCDs/PCDs, issue any shares by way of bonus unless similar benefit is extended to the holders of such FCDs/PCDs, through reservation of shares in proportion to such convertible part of FCDs or PCDs.

(b) The shares so reserved may be issued at the time of conversion(s) of such debentures on the same terms on which the bonus issues were made.

15.1.2 The bonus issue shall be made out of free reserves built out of the genuine profits or share premium collected in cash only.

15.1.3 Reserves created by revaluation of fixed assets are not capitalised.

15.1.4 The declaration of bonus issue, in lieu of dividend, is not made.

15.1.5 The bonus issue is not made unless the partly-paid shares, if any existing, are made fully paid-up.

15.1.6 The Company -

(a) has not defaulted in payment of interest or principal in respect of fixed deposits and interest on existing debentures or principal on redemption thereof and

(b) has sufficient reason to believe that it has not defaulted in respect of the payment of statutory dues of the employees such as contribution to provident fund, gratuity, bonus etc.

15.1.7 A company which announces its bonus issue after the approval of the Board of Directors must implement the proposal within a period of six months from the date of such approval and shall not have the option of changing the decision.

15.1.8

(i) The Articles of Association of the company shall contain a provision for capitalisation of reserves, etc.

(ii) If there is no such provision in the Articles the company shall pass a Resolution at its general body meeting making provisions in the Articles of Associations for capitalisation.

15.1.9 Consequent to the issue of Bonus shares if the subscribed and paid-up capital exceed the authorised share capital, a Resolution shall be passed by the company at its general body meeting for increasing the authorised Capital.

15.1.10 A certificate duly signed by the issuer company and counter signed by statutory auditor or by Company Secretary in practice to the effect that the provision of clause 15.1.1 to 15.1.9 have been complied with shall be forwarded to the Board.